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NEW DELHI, SATURDAY, MARCH 8, 2003/PHALGUNA 17, 1924

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

मंत्रिमण्डल सचिवालय

नई दिल्ली, 24 फरवरी, 2003

के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और
अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[फा. सं० 228/8/2003-डी०एस०पी०ई०]

शुभा ठाकुर, अवर सचिव

CABINET SECRETARIAT

New Delhi, the 24th February, 2003

का.आ. 747.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं० 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार की अधिसूचना सं० एच०डी० 198 पी०सी०आर० 2002 दिनांक 15 नवम्बर, 2002 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री वाई० एन० शिनाय, मुख्य प्रबंधक, केनरा बैंक, बेनसन टाउन शाखा, बंगलौर (2) श्री श्रीनिवास देसाई, प्रबंधक, केनरा बैंक, बेनसन टाउन शाखा, बंगलौर (3) श्री एन०आर० गुरुराजा, अधिकारी, केनरा बैंक, बेनसन टाउन शाखा, बंगलौर और (4) श्री जी० पी० प्रभु, प्रबंध निदेशक, बैरांव होटल, व्यालीकवल, बंगलौर, निवासी नं० 10, 153/3, 7वां मेन, 9वां क्रॉस, मल्लेश्वरम, बंगलौर एवं किन्हीं अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध भारतीय दंड संहिता, 1860 की धारा 120-बी संपठित धारा 420 और 471 तथा भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 13(2) संपठित धारा 13 (1) (डी) के अधीन दंडनीय उनके कपटपूर्ण कृत्यों और उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्नों, दुष्प्रेरणों और षडयंत्रों तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों के अन्वेषणों

S.O. 747.—In exercise of the powers conferred by Sub-section (1) of Section 5, read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka issued vide Notification No. HD 198 PCR 2002 dated 15th November 2002, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences against Shri Y.N. Shenoy, Chief Manager, Canara Bank, Benson Town Branch, Bangalore (2) Shri Srinivasa Desai, Manager, Canara Bank, Benson Town Branch, Bangalore, (3) Shri N.R. Gururaja, Officer, Canara Bank, Benson Town Branch, Bangalore (4) Shri G.P. Prabhu, Managing Director, Baraon Hotel, Vyalikaval, Bangalore, Resident of No. 10, 153/3, 7th main, 9th Cross, Malleshwaram, Bangalore and any other public servants or persons for their alleged fraudulent

acts punishable under section 120-B read with 420 and 471 Indian Penal Code, 1860 and section 13 (2) read with 13 (1)(d) of Prevention of Corruption Act, 1988 and attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/8/2003-DSPE]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 25 फरवरी, 2003

का. आ. 748.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं० 25) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ओपी सं० 10072/2002 में माननीय केरल उच्च न्यायालय के दिनांक 28-05-2002 के आदेश के अनुसरण में चेंगनाचेरी पुलिस स्टेशन, केरल के अपराध मामला सं० 637/2001 के संबंध में भारतीय दंड संहिता की धारा 120-बी, 170, 380, 389, 390, 392 और 420 के अधीन दंडनीय अपराधों और उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत अपराधों से संबंधित अथवा संसक्त प्रयत्न, दुष्प्रेरण और षडयंत्र के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण केरल राज्य पर करती है।

[फा. सं० 228/1/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

New Delhi, the 25th February, 2003

S.O. 748.—In exercise of the powers conferred by Sub-section (1) of Section 5 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government as per the Order dated 28-5-2002 of the Hon'ble High Court of Kerala in OP No. 10072 of 2002 hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Kerala for investigation of offences punishable under Section 120-B, 170, 380, 389, 390, 392 and 420 IPC and attempt, abetment and conspiracy, in relation to or in connection with the offences committed in the course of the same transaction or arising out of the same facts of Crime No. 637/2001 of Chenganacherry Police Station, Kerala State.

[No. 228/1/2003-DSPE]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 25 फरवरी, 2003

का. आ. 749.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं० 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए गृह तथा परिवहन विभाग (अपराध), कर्नाटक सरकार, बंगलौर

द्वारा जारी अधिसूचना सं० एच०डी०१९७ पी०सी०आर० 2002 दिनांक 13 नवंबर, 2002 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से श्री सी० के० सरदेशपांडे, प्रबंधक, बैंक आफ इंडिया, हनुमंत नगर शाखा, बंगलौर और मैसर्स नाथ प्रोडक्ट्स प्रोमोटर्स प्राइवेट लिमिटेड, बंगलौर जिसका प्रतिनिधित्व इसके पांच निदेशकों यथा श्री के० एन० पंडुरंगस्ती, श्री के० पी० श्रीकांत, श्री के० पी० योगेन्द्र कुमार, श्री के० पी० श्रीनन्द और श्री के० जे० एस्० प्रसाद द्वारा किया जाता है, एवं किन्हीं अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध आर. सी. 4/ई/2002/सीबीआई/ बीएसएंड एफ सी/बंगलौर द्वारा डीएसपीई/सीबीआई/ बीएसएंडएफसी/ बंगलौर में भारतीय दंड संहिता, 1860 की धारा 120-बी सपठित धारा 409, 420 तथा भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 13 (2) सपठित धारा 13 (1) (डी) के अधीन दंडनीय अपराधों तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं० 228/13/2003-डी०एस०पी०ई० (i)]

शुभा ठाकुर, अवर सचिव

New Delhi, the 25th February, 2003

S.O. 749.—In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 197 PCR 2002 dated 13th November, 2002, issued by the Home and Transport Department (Crimes), Government of Karnataka, Bangalore, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under Section 120-B Indian Penal Code, 1860 read with 409, 420 of the Indian Penal Code, 1860 and sections 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 and any other offence committed in the course of the same transaction or arising out of the same facts against Shri. C. K. Sardeshpande, Manager, Bank of India, Hanumanthnagar Branch, Bangalore and M/s. Nath Products Promoters Private Limited, Bangalore represented by it five Directors namely Shri K.N. Pandurangasetty, Shri K. P. Srikanth, Shri K.P. Yogendra Kumar, Shri K.P. Srinandh and Shri K.J.S. Prasad and any other public servants or persons, registered with DSPE/CBI/BS&FC/Bangalore, vide RC.4/E/2002/CBI/BS&FC/BLR.

[No.228/13/2003-DSPE(i)]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 25 फरवरी, 2003

का. आ. 750.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं० 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग

करते हुए गृह तथा परिवहन विभाग (अपराध), कर्नाटक सरकार, बंगलौर द्वारा जारी अधिसूचना सं. एच.डी. 224 पी.सी.आर. 2002 दिनांक 24-12-2002 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से यूनिन बैंक आफ इंडिया, कोझिकोडे शाखा, के अधिकारियों अर्थात् श्री एच. आर. लाल, पूर्व सहायक महाप्रबंधक, आर. इलिशा, एसएमजीएस-4, पूर्व स्थानापन्न क्षेत्रीय प्रबंधक, श्री के. पी. शशिधरन एससी-3 पूर्व वरिष्ठ प्रबंधक, श्री ई. वी. राम नारायण एससी-2, पूर्व वरिष्ठ प्रबंधक, श्री रघुधरन, एससी-3, पूर्व वरिष्ठ प्रबंधक (क्रेडिट), श्री ई. ए. पाई, लेखाकर एवं किन्ही अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध आर. सी. 5 ई/2002/सीबीआई/बीएस एंड एफसी/बंगलौर द्वारा डीएसपीई/सीबीआई/बीएस एंड एफसी/बंगलौर में भारतीय दंड संहिता, 1860 की धारा 120-बी संपठित धारा 420 तथा भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 13 (2) संपठित धारा 13 (1) (डी) के अधीन दंडनीय अपराधों तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/13/2003-डी.एस.पी.ई. (ii)]

शुभा ठाकुर, अवर सचिव

New Delhi, the 25th February, 2003

S.O. 750.—In exercise of the powers conferred by sub-section (1) of Section 5, read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka vide Notification No. HD 224 PCR 2002 dated 24-12-2002, issued by the Home and Transport Department (Crimes), Government of Karnataka, Bangalore, hereby extends the powers and Jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under Section 120-B read with 420 of Indian Penal Code, 1860 and section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 and any other offence and offences committed in the course of the same transaction or arising out of the same facts against the officers of Union Bank of India, Kozhikode Branch viz., Shri H.R. Lal, Formerly Asst. General Manager, R. Elisha, SMGS IV, formerly Officiating Regional Manager, Shri K.P. Sasidharan SC-III formerly Senior Manager Shri E.V. Ram Narayan SC-II, formerly Senior Manager, Shri Raghudharan, SC-III, Formerly Senior Manager (Credit), Shri E.A. Pai, Accountant and any other public Servants or persons, registered with DSPE/CBI/BS&FC/Bangalore, vide RC.5/E/2002/CBI/BS&FC/BLR.

[No. 228/13/2003-DSPE (ii)]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 25 फरवरी, 2003

का.आ. 751.—केन्द्रीय सरकार एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा

6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए गृह तथा परिवहन विभाग (अपराध), कर्नाटक सरकार, बंगलौर द्वारा जारी अधिसूचना सं. एच.डी. 230 पी.सी.आर. 2002 दिनांक 27-12-2002 द्वारा प्राप्त कर्नाटक राज्य सरकार की सहमति से मैसर्स सोफ्ट टच लेस कंपनी प्रा. लिमिटेड के निदेशकों श्री एस. वैद्यनाथन, श्री एस. शेखाद्री, श्री एस. कृष्णामूर्ति और श्री एम. एस. सुन्दरराजन तथा मैसर्स सोफ्ट टच लेस कंपनी प्रा. लिमिटेड, डी.पी. नगर कोट्टरपुरम, चेन्नई और बैंक ऑफ इंडिया, कॉरपोरेट बैंकिंग ब्रांच चेन्नई तथा हेड ऑफिस, मुंबई के अज्ञात पदाधिकारियों एवं किन्ही अन्य लोक सेवकों अथवा व्यक्तियों के विरुद्ध आर.सी. 5 ई/2002/सीबीआई/बीएस एंड एफसी/बंगलौर द्वारा डीएसपीई/सीबीआई/बीएस एंड एफसी/बंगलौर में भारतीय दंड संहिता, 1860 की धारा 120-बी संपठित धारा 420, 467, 468, और 471 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का केन्द्रीय अधिनियम 49) की धारा 13 (2) संपठित धारा 13 (1) (डी) के अधीन दंडनीय अपराधों तथा उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण कर्नाटक राज्य पर करती है।

[सं. 228/13/2003-डी.एस.पी.ई. (iii)]

शुभा ठाकुर, अवर सचिव

New Delhi, the 25th February, 2003

S.O. 751.—In exercise of the powers conferred by Sub-section (1) of Section 5, read with section 6 of the Delhi Special Police Establishment Act, 1946. (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka issued vide Notification No. HD 230 PCR 2002 dated 27-12-2002, issued by the Home and Transport Department (Crimes), Government of Karnataka, Bangalore, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Karnataka for investigation of offences punishable under Section 120-B Indian Penal Code, 1860 read with 420, 467, 468 and 471 of the Indian Penal Code, 1860 and Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 (Central Act 49 of 1988) and any other offence committed in the course of the same transaction or arising out of the same facts against Shri. S. Vaidhyanathan, Shri S. Seshadri, Shri S. Krishnamurthy and Shri M.S. Sounder Rajan, Directors of M/S Soft Touch Lace Co. Pvt. Limited and M/s Soft Touch Lace Co. Pvt. Limited, D.P Nagar, Kottupuram, Chennai and unknown officials of Bank of India, Corporate Banking Branch, Chennai and Head Office, Mumbai and any other Public Servants or persons, registered with DSPE/CBI/BS & FC/Bangalore, vide R.C. 6/E/2002/CBI/BS&FC/BLR.

[No. 228/13/2003-DSPE (iii)]

SHUBHA THAKUR, Under Secy.

नई दिल्ली, 26 फरवरी, 2003

का. आ. 752.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 3 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अपराधों को दिल्ली विशेष पुलिस स्थापना द्वारा अन्वेषित किए जाने वाले अपराधों के रूप में विनिर्दिष्ट करती है, नामतः—

- (क) भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 275 के अधीन दंडनीय अपराध, और
- (ख) उपर्युक्त अपराधों में से एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्न, दुष्टप्रेरण और षडयंत्र तथा उसी संयोजन के अनुक्रम में किए गए अथवा उन्ही तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों का।

[सं. 228/9/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

New Delhi, the 26th February, 2003

S.O. 752.—In exercise of the powers conferred by Section 3 of the Delhi Special Police Establishment Act, 1946 (Act. No. 25 of 1946), the Central Government hereby specifies the following offences as the offences which are to be investigated by the Delhi Special Police Establishment namely:—

- (a) Offences punishable under Section 275 of Indian Penal Code 1860 (Act No. 45 of 1860); and
- (b) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offences or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/9/2003-DSPE]

SHUBHA THAKUR, Under Secy.

आदेश

नई दिल्ली, 27 फरवरी, 2003

का. आ. 753.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और प्रकीर्ण रिट याचिका सं. 6052/2002 में इलाहाबाद उच्च न्यायालय द्वारा पारित दिनांक 7-10-2002 के आदेश के अनुपालन में पुलिस स्टेशन, न्यू आगरा, जिला आगरा (उ.प्र.) में भारतीय दंड संहिता, 1860 की धारा 275 के अधीन दर्ज अपराध मामला सं. 776/2002 और उपर्युक्त अपराधों में एक अथवा अधिक से संबंधित अथवा संसक्त प्रयत्नों, दुष्टप्रेरणों और षडयंत्रों तथा उसी संयोजन के अनुक्रम में किए गए अथवा उन्ही तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों को शक्तियों और अधिकारिता का विस्तार करती है।

[सं. 228/9/2003-डी.एस.पी.ई.]

शुभा ठाकुर, अवर सचिव

ORDER

New Delhi, the 27th February, 2003

S.O. 753.—In exercise of the powers conferred by sub-section (1) of Section 5 the Delhi Special Police Establishment Act, 1946 (Act. No. 25 of 1946), and in compliance of the order dated 7-10-2002 passed by the High Court of judicature at Allahabad in Misc. Writ Petition No. 6052 of 2002, the Central Government hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment for investigation of crime No. 776 of 2002 under Section 275 of Indian Penal Code, 1860 registered at P.S. New Agra, Distt. Agra (U.P.) and attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/9/2003-DSPE]

SHUBHA THAKUR, Under Secy.

गृह मंत्रालय

नई दिल्ली, 30 जनवरी, 2003

का. आ. 754.—सरकारी स्थान (अनाधिकृत अधिकारियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा-3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार प्रिंसीपल अथवा पुलिस उप महानिरीक्षक सेन्ट्रल ट्रेनिंग कालेज-2 केन्द्रीय रिजर्व पुलिस बल, कोयम्बटूर (तमिलनाडू), को भारत सरकार, के एक राजपत्रित अधिकारी होने के नाते उक्त अधिनियम के प्रयोजनों के लिए सम्पदा अधिकारी के रूप में नियुक्त करती है और आगे यह निर्देश देती है कि उक्त अधिकारी उक्त अधिनियम के द्वारा अपने क्षेत्राधिकार की सीमा के अधीन सेन्ट्रल ट्रेनिंग कालेज-2, केन्द्रीय रिजर्व पुलिस बल, कोयम्बटूर (तमिलनाडू) के स्थान जो केन्द्रीय रिजर्व पुलिस बल का है/नियंत्रण में है उसके बारे में सम्पदा अधिकारी को प्रदत्त शक्तियों का प्रयोग करेगा और उसके लिए दिए गए कर्तव्यों का पालन करेगा।

[सं. ए. II-2/75-2002 (एडम)/III/सी.आर.पी.एफ./गृह मंत्रालय-पी.एफ.-III]

एम.एस. कलानिया, अवर सचिव

MINISTRY OF HOME AFFAIRS

New Delhi, the 30th January, 2003

S.O. 754.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the Principal or Dy. Inspector General of Police, Central Training College-II, Central Reserve Police Force, Coimbatore (Tamil Nadu), being a Gazetted Officer of the Government of India, to be the Estate Officer for the purpose of the said Act, and directs that the said officer shall exercise the powers conferred and perform the duties imposed on Estate Officer by or under the said Act, in respect of the Public Premises under the Control of occupation of the Central Reserve Police Force at Central Training College-II, Central Reserve Police Force, Coimbatore (Tamil Nadu).

[No. A.II. 2/75-2002-(Adm.)/III/CRPF/MHA/PF-III]

M.S. KALANIA, Under Secy.

वित्त एवं कम्पनी कार्य मंत्रालय

(राजस्व विभाग)

केन्द्रीय उत्पाद शुल्क आयुक्त का कार्यालय

मदुरै, 25 फरवरी, 2003

सं. 1/2003-सीमा शुल्क (एन टी)

का. आ. 755.—सीमा शुल्क अधिनियम, 1962 धारा 9 जो भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली के अधिसूचना सं. 33/94-सीमा शुल्क (एन टी) दिनांक 1-7-94 के साथ पठित, द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं एतद्वारा तमिलनाडु राज्य के, दिंडुक्कल जिला, निलक्कोट्टै तालुका के सेवुगंपट्टी गाँव के पट्टिवेरानपट्टी को (नगर पंचायत के सीमाओं के अन्दर), सीमा शुल्क अधिनियम, 1962 (1962 का 52) के अधीन शत प्रतिशत निर्यातोनमुख उपक्रम स्थापित करते हेतु भंडागार घोषित करता हूँ।

[फाइल सी. सं. IV/16/22/2003-T-2]

एम. सुरेश, आयुक्त

MINISTRY OF FINANCE AND COMPANY AFFAIRS

(Department of Revenue)

**OFFICE OF THE COMMISSIONER OF CENTRAL
EXCISE**

Madurai, the 25th February, 2003

No. 1/2003-CUSTOMS (NT)

S.O. 755.—In exercise of the powers conferred on me under Section 9 of the Customs Act, 1962 (52 of 1962) read with Notification No. 33/94-Customs (NT) dated 01-07-94 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I hereby declare "Pattiveeranpatti (within the limits of Town Panchayat), Sevugampatti Village, Nilakottai Taluk, Dindigul District" in the State of Tamil Nadu to be a warehousing station under the Customs Act, 1962 (52 of 1962) for the purpose of setting up of 100% Export Oriented Undertakings.

[File C. No. IV/16/22/2003-T-2]

M. SURESH, Commissioner

भारतीय लेखा तथा लेखापरीक्षा विभाग**भारत के नियंत्रक-महालेखापरीक्षक का कार्यालय**

नई दिल्ली, 25 फरवरी, 2003

का. आ. 756.—जबकि भारत सरकार का यह विचार है कि श्री बी० डी० चावला, वरिष्ठ लेखा अधिकारी से सम्बन्धित विभागीय जांच के प्रयोजन हेतु पटियाला निवासी श्रीमती पिंकी रानी तथा श्री आर० के० तिवारी को गवाह के रूप में/से कोई दस्तावेज मांगने के लिए सम्मन देना आवश्यक है।

अब इसलिए, विभागीय जांच (प्रवर्तन एवं दस्तावेजों का प्रस्तुतीकरण) अधिनियम, 1972 (1972 का 18) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों के उपयोग में केन्द्र सरकार एतद्वारा उपर्युक्त गवाहों के संबंध में कथित अधिनियम की धारा 5 में निर्दिष्ट शक्ति का उपयोग करने के लिए जांच प्राधिकारी के रूप में श्री पी० के० वर्मा, उप महालेखाकार (लेखा/बी एल सी), कार्यालय महालेखाकार (लेखा एवं हकदारी), पंजाब, चण्डीगढ़ को प्राधिकृत करती है।

[संख्या 355-रा०स्था-II/49-98]

मनीष कुमार, सहायक नियंत्रण-महालेखापरीक्षक (अराज)

**INDIAN AUDIT & ACCOUNTS DEPARTMENT
OFFICE OF THE COMPTROLLER & AUDITOR
GENERAL OF INDIA**

New Delhi, the 25th February, 2003

S.O. 756.—Whereas the Central Government is of the opinion that for the purposes of the Departmental inquiry relating to Shri B.D. Chawla, Senior Accounts Officer, it is necessary to summon as witnesses/call for any document from Smt. Pinki Rani and Shri R. K. Tiwari, residents of Patiala.

Now therefore, in exercise of the powers conferred by Sub-section (1) of Section 4 of the Departmental Inquiries (Enforcement and Production of documents) Act, 1972 (18 of 1972), the central Government hereby authorizes Shri P. K. Verma, Deputy Accountant General (Accounts/VLC), office of the Accountant General (A&E), Punjab, Chandigarh as the inquiring authority to exercise the power specified in Section 5 of the said Act in relation to the above witnesses.

[No. 355-GE II/49-98]

MANISH KUMAR, Asstt. Comptroller & Auditor
General (N)

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 21 फरवरी, 2003

का. आ. 757.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 की धारा 6 की उपधारा (1) के खंड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्वारा, निम्नलिखित व्यक्तियों को 21 फरवरी, 2003 से तीन वर्ष की अवधि के लिए राष्ट्रीय कृषि और ग्रामीण विकास बैंक के निदेशक नियुक्त करती है :-

1. कृषि विकास आयुक्त, के स्थान पर वित्तीय सलाहकार
गोवा सरकार, (विकास) और सचिव
पणजी, गोवा। (कृषि) पंजाब सरकार,
चंडीगढ़।

2. कृषि उत्पादन आयुक्त, के स्थान पर प्रधान सचिव, कृषि और
छत्तीसगढ़ सरकार, सहकारिता विभाग,
रायपुर। गुजरात सरकार, गांधीनगर
- [सं० एफ 7/5/2002-बी.ओ.-I]
रमेश चन्द, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 21st February, 2003

S.O. 757.—In exercise of powers conferred by clause (e) of Sub-section (1) of Section 6 of the National bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government, in consultation with Reserve Bank of India, hereby appoints the following persons to be the directors of the National Bank for Agriculture and Rural Development for a period of three years with effect from 21st February, 2003 :—

- | | |
|--|--|
| 1. Development Commis-
sioner Agriculture,
Government of Goa,
Panaji (Goa). | Vice Financial
Commissioner
(Development) and
Secretary
(Agriculture),
Government of Punjab,
Chandigarh. |
| 2. Agriculture Production
Commissioner, Govern-
ment of Chattishgarh,
Raipur. | Vice Principal Secretary,
Agriculture and
Cooperation
Department, Govern-
ment of Gujarat,
Gandhinagar. |

[F. No. 7/5/2002-B.O.-I]

RAMESH CHAND, Under Secy.

नई दिल्ली, 25 फरवरी, 2003

का. आ. 758.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 3 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970 की धारा 9 को उप-धारा (3) के खंड (ड.) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा श्री शंकरन श्रीनिवासन, विशेष सहायक, इण्डियन ओवरसीज बैंक, चेम्बूर, मुम्बई को 25-2-2003 से 24-2-2006 तक तीन वर्ष की अवधि के लिए या उसके बाद उनके उत्तराधिकारी की नियुक्ति होने तक या इण्डियन ओवरसीज बैंक के कर्मकार कर्मचारी के रूप में उनकी सेवाएं समाप्त होने तक, इनमें से जो भी पहले हो, इण्डियन ओवरसीज बैंक के निदेशक बोर्ड में कर्मकार कर्मचारी निदेशक के रूप में नामित करती है।

[फा. सं. 15/1/2002-आई.आर.]

ए. थामस, अवर सचिव

New Delhi, the 25th February, 2003

S.O. 758.—In exercise of the powers conferred by clause (e) of Sub-section 3 of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 read with Sub-clause (1) of Clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government hereby appoints Shri Shankaran Srinivasan, Special Assistant, Indian Overseas Bank, Chembur, Mumbai as a workmen Employee Director on the Board of Directors of Indian Overseas Bank for a period of three years with effect from 25-2-2003 to 24-2-2006 and thereafter until his successor is appointed or till he ceases to be a workman employee of Indian Overseas Bank whichever is earlier.

[F. No. 15/1/2002-IR]

A. THOMAS, Under Secy.

शुद्धिपत्र

नई दिल्ली, 26 फरवरी, 2003

का. आ. 759.—भारत के राजपत्र के भाग II खण्ड 3 (ii) में प्रकाशित 5 अक्टूबर, 2002 के का. आ. 3141 वाले दिनांक 19 सितम्बर, 2002 की अधिसूचना फा. सं. 13/9/2002-बीओए में निम्नलिखित संशोधन किया जाता है :

के लिए	पढ़ें
बैंक ऑफ अमेरिका सिक्युरिटीज (इंडिया) प्रा० लि०	बैंक ऑफ अमेरिका सिक्युरिटीज (इंडिया) प्रा० लि०

[फा. सं. 13/9/2002-बीओए]

डी. चौधरी, अवर सचिव

CORRIGENDUM

New Delhi, the 26th February, 2003

S.O. 759.—In the notification F. No. 13/9/2002-BOA dated 19th September, 2002 having S.O. 3141 published in Part II Section 3(ii) of the Gazette of India dated October 5, 2002 the following correction is made :

For	Read
Bank of America Securities (India) Pvt. Ltd.	Banc of America Securities (India) Pvt. Ltd.

[F. No. 13/9/2002-BOA]

D. CHOUDHURY, Under Secy.

नई दिल्ली, 3 मार्च, 2003

का. आ. 760.—क्षेत्रीय ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारत के राजपत्र (असाधारण) भाग-2, खंड-3, उपखंड (ii) में प्रकाशित दिनांक 9 सितम्बर, 1976 की भारत सरकार, वित्त मंत्रालय, भूतपूर्व राजस्व एवं बैंकिंग (बैंकिंग स्कन्ध) विभाग की अधिसूचना सं. का. आ. 787(अ) में निम्नलिखित संशोधन करती है अर्थात् :—

उक्त अधिसूचना में, “कण्णूर, कासरगोड, कोट्टयम एवं एर्णाकुलम जिला तथा वयनाड जिला के उत्तर वयनाड तालुक” शब्दों के लिए “केरल राज्य में कण्णूर, कासरगोड, कोट्टयम, एर्णाकुलम, वयनाड का उत्तर वयनाड तालुका एवं आलप्पुषा जिले” शब्द प्रतिस्थापित किए जाएं।

यह अधिसूचना सरकारी राजपत्र में प्रकाशन की तारीख से प्रभावी होगी।

[सं० एफ-1/(1)/99-आरआरबी]

एस. के. ठाकुर, अवर सचिव

पाद टिप्पण :—प्रधान अधिसूचना 1 दिसम्बर, 1976 की का. आ. सं. 787(अ) के द्वारा प्रकाशित हुई थी और बाद में 18 सितम्बर, 1999 की अधिसूचना का. आ. सं. 2521(अ) द्वारा संशोधित की गई।

New Delhi, the 3rd March, 2003

S.O. 760.—In exercise of the powers conferred by Sub-section (1) of Section 3 of the Regional Rural Bank Act, 1976 (21 of 1976) the central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance in the erstwhile Department of Revenue and Banking (Banking Wing), No. S.O. 787(E) dated 9th September, 1976 and published in the Gazette of India, Extraordinary, Part II Section-3 sub-section (ii), namely :—

In the said notification, for the words “districts of Cannanore, Kasaragod, Kottayam and Ernakulam and North Wynad Taluka of Wynad district”, the words “districts of Cannanore, Kasaragod, Kottayam, Erankulam, North Wynad Taluka of Wynad and Alappuzha in the State of Kerala” shall be substituted.

This notification shall take effect from the date of publication in the Official Gazette.

[F.No. 1(1)/99-RRB]

S. K. THAKUR, Under Secy.

Foot Note : The Principal Notification was published vide S.O. 787(E) dated 1st December, 1976 and subsequently amended by Notification S.O. 2521(E) dated 18th September, 1999.

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 21 फरवरी, 2003

का. आ. 761.—रेल मंत्रालय (रेलवे बोर्ड) राजभाषा नियम, 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम (2) और (4) के अनुसरण में रेल दावा अधिकरण, गाजियाबाद पीठ को, जहां 80% से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करता है।

[सं. हिंदी-2001/रा.भा.1/12/2]

राजीव रंजन जारुहार, सचिव (रेलवे बोर्ड)

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 21st February, 2003

S.O. 761.—Ministry of Railways (Railway Board), in pursuance of Sub-Rules (2) and (4) of Rule 10 of the Official Language Rules, 1976 (use for the official purposes of the Union) hereby notify the Railway Claims Tribunal, Ghaziabad Bench, where 80% of the officers/employees have acquired the working knowledge of Hindi.

[No. Hindi-2001/OL-1/12/2]

R.R. JARUHAR, Secy. (Railway Board)

नई दिल्ली, 26 फरवरी, 2003

का. आ. 762.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे दी गई सारणी के स्तंभ (1) में उल्लिखित अधिकारियों को, जो सरकार के राजपत्रित अधिकारी हैं, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तंभ (2) की तत्स्थानी प्रविष्टि में विनिर्दिष्ट सरकारी स्थानों के प्रवर्गों की बाबत उनकी अधिकारिता की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारी को प्रदत्त शक्तियों का प्रयोग और अधिरोपित कर्तव्यों का पालन करेंगे :—

सारणी	
अधिकारी का पदनाम	सरकारी स्थानों के प्रवर्ग और अधिकारिता की स्थानीय सीमाएं
(1)	(2)
नगर इंजीनियर, अनुसंधान अभिकल्प और मानक संगठन, मानक नगर, लखनऊ	महानिदेशक, अनुसंधान अभिकल्प और मानक संगठन, मानक नगर, लखनऊ के प्रशासनिक नियंत्रणाधीन स्थान

[फा. सं. 96/एलएमएल/14/90]

आर. आर. जारुहार, सचिव (रेलवे बोर्ड)

New Delhi, the 26th February, 2003

S.O. 762.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officers mentioned in column (1) of the Table below, being Gazetted officers of the Government, to be estate officers for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on the estate officers by or under the said Act within the local limits of their jurisdiction in respect of the categories of public premises specified in the corresponding entry in column (2) of the said table:

TABLE

Designation of the officer	Categories of Public Premises and local limits of jurisdiction
(1)	(2)
Town Engineer, Research Designs and Standards Organisation, Manak Nagar, Lucknow.	Premises under the administrative control of the Director General, Research Designs and Standards Organisation, Lucknow.

[F. No. 96/LML/14/90]

R. R. JARUHAR, Secy. (Railway Board)

नागर विमानन मंत्रालय

नई दिल्ली, 3 मार्च, 2003

का. आ. 763.—केन्द्रीय सरकार, विमान वहन अधिनियम, 1972 (1972 का 69) की धारा 3 की उपधारा (2) के अनुसरण में और तत्कालीन पर्यटन और नागर विमानन मंत्रालय, भारत सरकार की अधिसूचना सं. का. आ. 4645 तारीख 29 सितम्बर, 1975 को अधिकांश करते हुए प्रमाणित करती है कि नीचे की

सारणी के स्तम्भ 1 में विनिर्दिष्ट उच्च संविदाकारी पक्षकार, उसके स्तम्भ 2 में तत्स्थानी प्रविष्टियों में विनिर्दिष्ट राज्य क्षेत्रों की बाबत, वारसा में 12 अक्टूबर, 1929 को हस्ताक्षरित अन्तर्राष्ट्रीय विमान वहन से संबंधित कतिपय नियमों के एकीकरण के लिए अभिसमय के उच्च संविदाकारी पक्षकार होंगे।

सारणी

अभिसमय के उच्च संविदाकारी पक्षकार	वे राज्य क्षेत्र जिनकी बाबत वे पक्षकार हैं
1	2
अफगानिस्तान	अफगानिस्तान
अल्जीरिया	अल्जीरिया
अंगोला	अंगोला
अर्जेंटाईना	अर्जेंटाईना
आर्मेनिया	आर्मेनिया
आस्ट्रेलिया	आस्ट्रेलिया
आस्ट्रिया	आस्ट्रिया
अर्जवेइजान	अर्जवेइजान
बहामस	बहामस
बहरीन	बहरीन
बंगलादेश	बंगलादेश
बरबाडोस	बरबाडोस
बेलेरस	बेलेरस
बैलजियम	बैलजियम
बेनिन	बेनिन
बोलिविया	बोलिविया
बोस्निया और हर्जोगोविना	बोस्निया और हर्जोगोविना
बोटस्वाना	बोटस्वाना
ब्राजील	ब्राजील
बरूनई दारुसलाम	बरूनई दारुसलाम
बुल्गारिया	बुल्गारिया
बुर्किना फासो	बुर्किना फासो
कम्बोडिया	कम्बोडिया
कैमरून	कैमरून
कनाडा	कनाडा

1	2	1	2
केप वर्डे	केप वर्डे	आईसलैंड	आईसलैंड
चिली	चिली	भारत	भारत
चीन	चीन और उसके राज्य क्षेत्र हांगकांग के संबंध में भी	इंडोनेशिया	इंडोनेशिया
कोलम्बिया	कोलम्बिया	ईरान, इस्लामिक गणराज्य	ईरान, इस्लामिक गणराज्य
कोमोरोस	कोमोरोस	ईराक	ईराक
कांगो	कांगो	आयरलैंड	आयरलैंड
कोस्टारिक	कोस्टारिक	इजराइल	इजराइल
कोट-डी आईवायर	कोट-डी आईवायर	इटली	इटली
क्रोशिया	क्रोशिया	जापान	जापान
क्यूबा	क्यूबा	जार्डन	जार्डन
साइप्रस	साइप्रस	कीनिया	कीनिया
चैक गणराज्य	चैक गणराज्य	कुबेत	कुबेत
कोरिया प्रजातन्त्र गणराज्य	कोरिया प्रजातन्त्र गणराज्य	किरगिस्तान	किरगिस्तान
कांगो प्रजातन्त्र गणराज्य	कांगो प्रजातन्त्र गणराज्य	लाओ, प्रजातन्त्र गणराज्य	लाओ, प्रजातन्त्र गणराज्य
डेनमार्क	डेनमार्क	लाटविया	लाटविया
डोमिनिकन गणराज्य	डोमिनिकन गणराज्य	लेबनान	लेबनान
इक्वाडोर	इक्वाडोर	लेसोथो	लेसोथो
मिश्र	मिश्र	लाइबीरिया	लाइबीरिया
भूमध्यवर्ती गुआना	भूमध्यवर्ती गुआना	लिबियन अरब जामाहिरिया	लिबियन अरब जामाहिरिया
एस्टोनिया	एस्टोनिया	लिकेतेन्सताइन	लिकेतेन्सताइन
ईथोपिया	ईथोपिया	लग्जमबर्ग	लग्जमबर्ग
फीजी	फीजी	मेडागास्कर	मेडागास्कर
फिनलैंड	फिनलैंड	मलावी	मलावी
फ्रांस	फ्रांस	मलेशिया	मलेशिया
गेबन	गेबन	मालदीप	मालदीप
जर्मनी	जर्मनी	माली	माली
घाना	घाना	माल्टा	माल्टा
ग्रीस	ग्रीस	मोरीटानिया	मोरीटानिया
ग्वाटेमाला	ग्वाटेमाला	मारीशस	मारीशस
गुआना	गुआना	मैक्सिको	मैक्सिको
हांडुरास	हांडुरास	मंगोलिया	मंगोलिया
हंगरी	हंगरी	मोरक्को	मोरक्को

1	2	1	2
मयमार	मयमार	दक्षिण अफ्रीका	दक्षिण अफ्रीका
नारू	नारू	स्पेन	स्पेन
नेपाल	नेपाल	श्रीलंका	श्रीलंका
नीदरलैंड	नीदरलैंड	सूडान	सूडान
न्यूजीलैंड	न्यूजीलैंड	स्वीडन	स्वीडन
नईजर	नईजर	स्विट्जरलैंड	स्विट्जरलैंड
नाइजीरिया	नाइजीरिया	सीरियन अरब गणराज्य	सीरियन अरब गणराज्य
नार्वे	नार्वे	द फार्मर यूगोस्लाव	द फार्मर यूगोस्लाव
ओमान	ओमान	मेसेडोनिया गणराज्य	मेसेडोनिया गणराज्य
पाकिस्तान	पाकिस्तान	टोगो	टोगो
पनामा	पनामा	टोंगा	टोंगा
पापुआ न्यु गुआना	पापुआ न्यु गुआना	ट्रिनीडाड और टोबेगो	ट्रिनीडाड और टोबेगो
पेरागुए	पेरागुए	टूनिशिया	ट्रिनीडाड और टोबेगो
पेरू	पेरू	तुर्की	तुर्की
फिलीपाइन्स	फिलीपाइन्स	तुर्कमेनिस्तान	तुर्कमेनिस्तान
पोलेण्ड	पोलेण्ड	यूगांडा	यूगांडा
पुर्तगाल	पुर्तगाल	यूक्रेन	यूक्रेन
कतर	कतर	संयुक्त अरब अमीरात	संयुक्त अरब अमीरात
मालडोवा गणराज्य	मालडोवा गणराज्य	यूनाइटेड किंगडम	यूनाइटेड किंगडम और
रोमानिया	रोमानिया		निम्नलिखित राज्य
रशियन फेडरेशन	रशियन फेडरेशन		क्षेत्रों के संबंध में भी :
रवांडा	रवांडा		—बरमुडा
सेंट विसेंट एंड द ग्रेनाडिंस	सेंट विसेंट एंड द ग्रेनाडिंस		—ब्रिटिश एंटार्कटिक राज्य क्षेत्र
समोआ	समोआ		—केमैन, टर्क और कैकास द्वीप
सऊदी अरब	सऊदी अरब		—अक्रोतिरी और डेकेलिया
सेनेगल	सेनेगल		—फाकलैंड द्वीप और इन पर
सिशेलस	सिशेलस		निर्भरताएं
सीएरा लिओन	सीएरा लिओन	तंजानिया संयुक्त गणराज्य	—सेंट हेलीना और आरोहण
सिंगापुर	सिंगापुर	संयुक्त राज्य	तंजानिया संयुक्त गणराज्य
स्लोवाकिया	स्लोवाकिया	उरूगुए	संयुक्त राज्य
स्लोवीनिया	स्लोवीनिया	उजबेकिस्तान	उरूगुए
सॉलमन आईलैंड	सॉलमन आईलैंड	वानुआटु	उजबेकिस्तान
			वानुआटु

1	2
वेनेजुएला	वेनेजुएला
वियतनाम	वियतनाम,
यमन	यमन
यूगोस्लाविया	यूगोस्लाविया
जाम्बिया	जाम्बिया
जिम्बाब्वे	जिम्बाब्वे

[फा. सं. एवी. 11016/1/2002-ए]

ए. वी. चतुर्वेदी, निदेशक

पाद टिप्पण : मूल अधिसूचना तारीख 25 अक्टूबर, 1975 के भारत के राजपत्र में तारीख 29 सितम्बर, 1975 की अधिसूचना संख्या का. आ. 4645 के द्वारा प्रकाशित की गई थी।

MINISTRY OF CIVIL AVIATION

New Delhi, the 3rd March, 2003

S.O. 763.—In pursuance of sub-section (2) of Section 3 of the Carriage by Air Act, 1972 (69 of 1972) and in supersession of the notification of the Government of India in the then Ministry of Tourism and Civil Aviation number S.O. 4645 dated 29th September, 1975, the Central Government hereby certifies that the High Contracting Parties specified in column 1 of the table below shall be the High Contracting Parties to the Convention for the Unification of Certain Rules relating to the International Carriage by Air signed at Warsaw on the 12th day of October, 1929, in respect of the territories specified in the corresponding entry in column 2 thereof.

TABLE

High Contracting Parties to the Convention	Territories in respect of which they are parties
1	2
Afghanistan	Afghanistan
Algeria	Algeria
Angola	Angola
Argentina	Argentina
Armenia	Armenia
Australia	Australia
Austria	Austria
Azerbaijan	Azerbaijan
Bahamas	Bahamas
Bahrain	Bahrain

1	2
Bangladesh	Bangladesh
Barbados	Barbados
Belarus	Belarus
Belgium	Belgium
Benin	Benin
Bolivia	Bolivia
Bosnia and Herzegovina	Bosnia and Herzegovina
Botswana	Botswana
Brazil	Brazil
Brunei Darussalam	Brunei Darussalam
Bulgaria	Bulgaria
Burkina Faso	Burkina Faso
Cambodia	Cambodia
Cameroon	Cameroon
Canada	Canada
Cape Verde	Cape Verde
Chile	Chile
China	China and also in respect of its territory —Hong Kong
Colombia	Colombia
Comoros	Comoros
Congo	Congo
Costa Rica	Costa Rica
Cote d' Ivoire	Cote d' Ivoire
Croatia	Croatia
Cuba	Cuba
Cyprus	Cyprus
Czech Republic	Czech Republic
Democratic People's Republic of Korea	Democratic People's Republic of Korea
Democratic Republic of the Congo	Democratic Republic of the Congo
Denmark	Denmark
Dominican Republic	Dominican Republic
Ecuador	Ecuador
Egypt	Egypt

1	2	1	2
Equatorial Guinea	Equatorial Guinea	Madagascar	Madagascar
Estonia	Estonia	Malawai	Malawai
Ethiopia	Ethiopia	Malaysia	Malaysia
Fiji	Fiji	Maldives	Maldives
Finland	Finland	Mali	Mali
France	France	Malta	Malta
Gabon	Gabon	Mauritania	Mauritania
Germany	Germany	Mauritius	Mauritius
Ghana	Ghana	Mexico	Mexico
Greece	Greece	Mongolia	Mongolia
Guatemala	Guatemala	Morocco	Morocco
Guinea	Guinea	Myanmar	Myanmar
Honduras	Honduras	Nauru	Nauru
Hungary	Hungary	Nepal	Nepal
Iceland	Iceland	Netherlands,	Netherlands,
India	India	New Zealand	New Zealand
Indonesia	Indonesia	Niger	Niger
Iran, Islamic Republic of	Iran, Islamic Republic of	Nigeria	Nigeria
Iraq	Iraq	Norway	Norway
Ireland	Ireland	Oman	Oman
Israel	Israel	Pakistan	Pakistan
Italy	Italy	Panama	Panama
Japan	Japan	Papua New Guinea	Papua New Guinea
Jordan	Jordan	Paraguay	Paraguay
Kenya	Kenya	Peru	Peru
Kuwait	Kuwait	Philippines	Philippines
Kyrgyzstan	Kyrgyzstan	Poland	Poland
Lao People's	Lao People's	Portugal	Portugal
Democratic Republic	Democratic Republic	Qatar	Qatar
Latvia	Latvia	Republic of Moldova	Republic of Moldova
Lebanon	Lebanon	Romania	Romania
Lesotho	Lesotho	Russian Federation	Russian Federation
Liberia	Leberia	Rwanda	Rwanda
Libyan Arab Jamahiriya	Libyan Arab Jamahiriya	Saint Vincent and the	Saint Vincent and the
Liechtenstein	Liechtenstein	Grenadines	Grenadines
Luxembourg	Luxembourg	Samoa	Samoa

1	2
Saudi Arabia	Saudi Arabia
Senegal	Senegal
Seychelles	Seychelles
Sierra Leone	Sierra Leone
Singapore	Singapore
Slovakia	Slovakia
Slovenia	Slovenia
Solomon Islands	Solomon Islands
South Africa	South Africa
Spain	Spain
Sri Lanka	Sri Lanka
Sudan	Sudan
Sweden	Sweden
Switzerland	Switzerland
Syrian Arab Republic	Syrian Arab Republic
The former Yugoslav	The former Yugoslav
Republic of Macedonia	Republic of Macedonia
Togo	Togo
Tonga	Tonga
Trinidad and Tobago	Trinidad and Tobago
Tunisia	Tunisia
Turkey	Turkey
Turkmenistan	Turkmenistan
Uganda	Uganda
Ukraine	Ukraine
United Arab Emirates	United Arab Emirates
United Kingdom	United Kingdom and also in respect of the following territories : —Bermuda —British Antarctic Territory —Cayman, Turks, and Caicos Islands —Akrotiri and Dhekelia —Falkland Islands and Dependencies —St. Helena and Ascension

1	2
United Republic of Tanzania	United Republic of Tanzania
United States	United States
Uruguay	Uruguay
Uzbekistan	Uzbekistan
Vanuatu	Vanuatu
Venezuela	Venezuela
Viet Nam	Viet Nam
Yemen	Yemen
Yugoslavia	Yugoslavia
Zambia	Zambia
Zimbabwe	Zimbabwe

[F. No. AV- 11016/1/2002-A]

A. V. CHATURVEDI, Director

Foot Note : The Principal notification was published vide notification number S.O. 4645 dated 29th September, 1975 in the Official Gazette of 25th October, 1975.

नई दिल्ली, 3 मार्च, 2003

का.आ. 764.—केन्द्रीय सरकार, विमान वहन अधिनियम, 1972 (1972 का 69) की धारा 4 की उपधारा (2) के अनुसरण में और तत्कालीन पर्यटन और नागर विमानन मंत्रालय, भारत सरकार की अधिसूचना सं. का.आ. 4511 तारीख 29 सितम्बर, 1975 को अधिक्रांत करते हुए प्रमाणित करती है कि नीचे की सारणी के स्तम्भ 1 में उल्लिखित उच्च संविदाकारी पक्षकार, उसके स्तम्भ 2 में तत्स्थानी प्रविष्टियों में विनिर्दिष्ट राज्य क्षेत्रों की बाबत, वारसा में 12 अक्टूबर, 1929 को हस्ताक्षरित जिसे हेग प्रोटोकॉल द्वारा 28 सितम्बर, 1955 को संशोधित किया गया है, अन्तर्राष्ट्रीय विमान वहन से संबंधित कतिपय नियमों के एकीकरण के लिए अभिसमय के उच्च संविदाकारी पक्षकार होंगे।

सारणी

अभिसमय के उच्च संविदाकारी पक्षकार	वे राज्य क्षेत्र जिनकी बाबत वे पक्षकार हैं
1	2
अफगानिस्तान	अफगानिस्तान
अल्जीरिया	अल्जीरिया
अंगोला	अंगोला
अर्जेन्टाईना	अर्जेन्टाईना

1	2	1	2
आस्ट्रेलिया	आस्ट्रेलिया	मिश्र	मिश्र
आस्ट्रिया	आस्ट्रिया	एल साल्वाडोर	एल साल्वाडोर
अर्जवेइजान	अर्जवेइजान	एस्टोनिया	एस्टोनिया
बहमास	बहमास	फिजी	फिजी
बहरीन	बहरीन	फिनलैंड	फिनलैंड
बंगलादेश	बंगलादेश	फ्रांस	फ्रांस
बेलेरस	बेलेरस	गैबन	गैबन
बैलजियम	बैलजियम	जर्मनी	जर्मनी
बेनिन	बेनिन	घाना	घाना
बोलिविया	बोलिविया	ग्रीस	ग्रीस
बोस्निया और हर्जोवोनिया	बोस्निया और हर्जोवोनिया	ग्रिनाडा	ग्रिनाडा
ब्राजील	ब्राजील	ग्वाटेमाला	ग्वाटेमाला
बुल्गारिया	बुल्गारिया	गुआना	गुआना
कम्बोडिया	कम्बोडिया	हंगरी	हंगरी
कैमरून	कैमरून	आईसलैंड	आईसलैंड
कनाडा	कनाडा	भारत	भारत
केप बर्डे	केप बर्डे	ईरान इस्लामिक गणराज्य	ईरान इस्लामिक गणराज्य
चिली	चिली	ईराक	ईराक
चीन	चीन और इसके राज्य क्षेत्र हांगकांग के संबंध में भी	आयरलैंड	आयरलैंड
कोलम्बिया	कोलम्बिया	इजराइल	इजराइल
कांगो	कांगो	इटली	इटली
कोस्टारिका	कोस्टारिका	जापान	जापान
कोट-डी आईवायर	कोट-डी आईवायर	जार्डन	जार्डन
क्रोशिया	क्रोशिया	केन्या	केन्या
क्यूबा	क्यूबा	कुबैत	कुबैत
साइप्रस	साइप्रस	किरगिस्तान	किरगिस्तान
चैक गणराज्य	चैक गणराज्य	लाओ, प्रजातन्त्र गणराज्य	लाओ, प्रजातन्त्र गणराज्य
कोरिया प्रजातन्त्र गणराज्य	कोरिया प्रजातन्त्र गणराज्य	लाटविया	लाटविया
डेनमार्क	डेनमार्क	लेबनान	लेबनान
डोमिनिकन गणराज्य	डोमिनिकन गणराज्य	लेसोथो	लेसोथो
इक्वाडोर	इक्वाडोर	लिबियन अरब जामाहिरिया	लिबियन अरब जामाहिरिया
		लिकेतेन्सताइन	लिकेतेन्सताइन

1	2	1	2
लिथुवानिया	लिथुवानिया	रवांडा	रवांडा
लक्जमबर्ग	लक्जमबर्ग	सेंट विसेंट एंड द ग्रेनाडिंस	सेंट विसेंट एंड द ग्रेनाडिंस
मेडागास्कर	मेडागास्कर	समोआ	समोआ
मलावी	मलावी	सऊदी अरेबिया	सऊदी अरेबिया
मलेशिया	मलेशिया	सेनेगल	सेनेगल
मालदीव	मालदीव	सिशेलस	सिशेलस
माली	माली	सिंगापुर	सिंगापुर
मारीशस	मारीशस	स्लोवाकिया	स्लोवाकिया
मैक्सिको	मैक्सिको	स्लोवेनिया	स्लोवेनिया
मोनाको	मोनाको	सॉलमन आइलैंड	सॉलमन आइलैंड
मोरक्को	मोरक्को	दक्षिण अफ्रीका	दक्षिण अफ्रीका
नारु	नारु	स्पेन	स्पेन
नेपाल	नेपाल	श्रीलंका	श्रीलंका
नीदरलैंड	नीदरलैंड	सूडान	सूडान
न्यूजीलैंड	न्यूजीलैंड	स्वाजीलैंड	स्वाजीलैंड
नाईजर	नाईजर	स्वीडन	स्वीडन
नाइजीरिया	नाइजीरिया	स्विट्जरलैंड	स्विट्जरलैंड
नार्वे	नार्वे	सीरियन अरब गणराज्य	सीरियन अरब गणराज्य
ओमान	ओमान	द फार्मर यूगोस्लाव	द फार्मर यूगोस्लाव
पाकिस्तान	पाकिस्तान	मेक्डोनिया गणराज्य	मेक्डोनिया गणराज्य
पनामा	पनामा	टोगो	टोगो
पापुआ न्यु गुआना	पापुआ न्यु गुआना	टोंगा	टोंगा
पेरागुए	पेरागुए	ट्रिनिडाड और टोबेगो	ट्रिनिडाड और टोबेगो
पीरू	पीरू	टूनिसिया	टूनिसिया
फिलीपाइन्स	फिलीपाइन्स	तुर्की	तुर्की
पोलैंड	पोलैंड	यूक्रेन	यूक्रेन
पुर्तगाल	पुर्तगाल	युनाइटेड अरब अमीरात	युनाइटेड अरब अमीरात
कतर	कतर	यूनाइटेड किंगडम	यूनाइटेड किंगडम और निम्नलिखित राज्यों के संबंध में :
कोरिया गणराज्य	कोरिया गणराज्य		—बरमुडा
मालडोवा गणराज्य	मालडोवा गणराज्य		—ब्रिटिश एंटार्क्टिक राज्य क्षेत्र
रोमानिया	रोमानिया		—केमैन, टर्क और कैकास आइलैंड
रशियन फेडरेशन	रशियन फेडरेशन		

1	2	1	2
	—अक्रोतिरी और ढेकेलिया	Argentina	Argentina
	—फॉकलैंड आइलैंड और इस पर निर्भर	Australia	Australia
	—मोंटसेरैट	Austria	Austria
	—सेंट हैलेना और आरोहण	Azerbaijan	Azerbaijan
उजबेकिस्तान	उजबेकिस्तान	Bahamas	Bahamas
वानुआटु	वानुआटु	Bahrain	Bahrain
बेनेजुएला	बेनेजुएला	Bangladesh	Bangladesh
वियतनाम	वियतनाम	Belarus	Belarus
यमन	यमन	Belgium	Belgium
यूगोस्लाविया	यूगोस्लाविया	Benin	Benin
जाम्बिया	जाम्बिया	Bolivia	Bolivia
जिम्बाब्वे	जिम्बाब्वे	Bosnia and Herzegovina	Bosnia and Herzegovina
[फा. सं. एबी. 11016/1/2002-ए]		Brazil	Brazil
ए. वी. चतुर्वेदी, निदेशक		Bulgaria	Bulgaria
पाद टिप्पण : मूल अधिसूचना तारीख 18 अक्टूबर 1975 के भारत के		Cambodia	Cambodia
राजपत्र में दिनांक 29 सितम्बर 1975 की अधिसूचना		Cameroon	Cameroon
संख्या का. आ. 4511 के द्वारा प्रकाशित की गई थी।		Canada	Canada
New Delhi, the 3rd March, 2003		Cape Verde	Cape Verde
S.O. 764.—In pursuance of Sub-section (2) of		Chile	Chile
Section 4 of the Carriage by Air Act, 1972 (69 of 1972)		China	China and also in respect of its Territory
and in supersession of the notification of the Go-			—Hong Kong
vernment of India in the then Ministry of Tourism and		Colombia	Colombia
Civil Aviation number S.O. 4511 dated 29th September,		Congo	Congo
1975, the Central Government hereby certifies that the		Costa Rica	Costa Rica
High Contracting Parties mentioned in column 1 of the		Cote d' Ivoire	Cote d' Ivoire
Table below shall be the High Contracting Parties to the		Croatia	Croatia
Convention for the Unification of Certain Rules relating		Cuba	Cuba
to the International Carriage by Air signed at Warsaw		Cyprus	Cyprus
on the 12th day of October, 1929, as amended by the		Czech Republic	Czech Republic
Hague Protocol on the 28th day of September, 1955 in		Democratic People's	Democratic People's
respect of the territories specified in the corresponding		Republic of Korea	Republic of Korea
entry in column 2 thereof.		Denmark	Denmark
TABLE		Dominican Republic	Dominican Republic
High Contracting Parties	Territories in respect	Ecuador	Ecuador
to the Convention	of which they are parties	Egypt	Egypt
1	2	El Salvador	El Salvador
Afghanistan	Afghanistan		
Algeria	Algeria		
Angola	Angola		

1	2	1	2
Estonia	Estonia	Maldives	Maldives
Fiji	Fiji	Mali	Mali
Finland	Finland	Mauritius	Mauritius
France	France	Mexico	Mexico
Gabon	Gabon	Monaco	Monaco
Germany	Germany	Morocco	Morocco
Ghana	Ghana	Nauru	Nauru
Greece	Greece	Nepal	Nepal
Grenada	Grenada	Netherlands	Netherlands
Guatemala	Guatemala	New Zealand	New Zealand
Guinea	Guinea	Niger	Niger
Hungary	Hungary	Nigeria	Nigeria
Iceland	Iceland	Norway	Norway
India	India	Oman	Oman
Iran, Islamic Republic of	Iran, Islamic Republic of	Pakistan	Pakistan
Iraq	Iraq	Panama	Panama
Ireland	Ireland	Papua New Guinea	Papua New Guinea
Israel	Israel	Paraguay	Paraguay
Italy	Italy	Peru	Peru
Japan	Japan	Philippines	Philippines
Jordan	Jordan	Poland	Poland
Kenya	Kenya	Portugal	Portugal
Kuwait	Kuwait	Qatar	Qatar
Kyrgyzstan	Kyrgyzstan	Republic of Korea	Republic of Korea
Lao People's	Lao People's	Republic of Moldova	Republic of Moldova
Democratic Republic	Democratic Republic	Romania	Romania
Latvia	Latvia	Russian Federation	Russian Federation
Lebanon	Lebanon	Rwanda	Rwanda
Lesotho	Lesotho	Saint Vincent and the	Saint Vincent and the
Libyan Arab Jamahiriya	Libyan Arab Jamahiriya	Grenadines	Grenadines
Liechtenstein	Liechtenstein	Samoa	Samoa
Lithuania	Lithuania	Saudi Arabia	Saudi Arabia
Luxembourg	Luxembourg	Senegal	Senegal
Madagascar	Madagascar	Seychelles	Seychelles
Malwai	Malwai	Singapore	Singapore
Malaysia	Malaysia	Slovakia	Slovakia

1	2
Slovenia	Slovenia
Solomon Islands	Solomon Islands
South Africa	South Africa
Spain	Spain
Sri Lanka	Sri Lanka
Sudan	Sudan
Swaziland	Swaziland
Sweden	Sweden
Switzerland	Switzerland
Syrian Arab Republic	Syrian Arab Republic
The former Yugoslav	The former Yugoslav
Republic of Macedonia	Republic of Macedonia
Togo	Togo
Tonga	Tonga
Trinidad and Tobago	Trinidad and Tobago
Tunisia	Tunisia
Turkey	Turkey
Ukraine	Ukraine
United Arab Emirates	United Arab Emirates
United Kingdom	United Kingdom and also in respect of the following territories :
	—Bermuda
	—British Antarctic Territory
	—Cayman, Turks, and Caicos Islands
	—Akrotiri and Dhekelia
	—Falkland Islands and Dependencies
	—Montserrat
	—St. Helena and Ascension
Uzbekistan	Uzbekistan
Vanuatu	Vanuatu

1	2
Venezuela	Venezuela
Viet Nam	Viet Nam
Yemen	Yemen
Yugoslavia	Yugoslavia
Zambia	Zambia
Zimbabwe	Zimbabwe

[File No. AV- 11016/1/2002-A]

A. V. CHATURVEDI, Director

Foot Note : The Principal notification was published vide notification number S.O. 4511 dated 29th September, 1975 in the Official Gazette of 18th October, 1975.

विद्युत मंत्रालय

नई दिल्ली, 20 फरवरी, 2003

का. आ. 765.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10(4) के अनुसरण में पावरग्रिड कारपोरेशन ऑफ इंडिया लि०, नई दिल्ली के नियंत्रणाधीन पावरग्रिड कारपोरेशन ऑफ इंडिया लि०, 400 के० वी० सब स्टेशन, दामोदरपुरा, बस्सी (जयपुर)–303301, राजस्थान कार्यालय, जिसके 80 प्रतिशत कर्मचारीवृन्द ने हिन्दी का कार्यसाधन ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

[सं० 11017/2/94-हिन्दी]

अजय शंकर, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 20th February, 2003

S.O. 765.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (use for official purposes of the union) Rules, 1976 the Central Government hereby notifies the Powergrid Corporation of India Ltd., 400 KV Sub-Station, Damodarpura, Bassi (Jaipur)-303301, Rajasthan office under the control of Powergrid Corporation of India Ltd., New Delhi, the staff whereof have acquired 80% working knowledge of Hindi.

[No. 11017/2/94-Hindi]



AJAY SHANKAR, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय
(उपभोक्ता मामले विभाग)
भारतीय मानक ब्यूरो

नई दिल्ली, 12 दिसम्बर, 2002

का. आ. 766.— भारतीय मानक ब्यूरो नियम 1987 के नियम 9 के उपनियम(1) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए भारतीय मानकों सम्बन्धी मानक मुहर के डिजाइन निर्धारित कर दिए गए हैं :-

अनुसूची

क्रम संख्या	मानक मुहर का डिजाइन	उत्पाद/ उत्पाद की श्रेणी	भारतीय मानक की संख्या और वर्ष	लागू होने की तिथि
(1)	(2)	(3)	(4)	(5)
1	IS 307 	कार्बन डाई ऑक्साइड	आईएस 307:1966	2002 10 23
2	IS 14953 	वस्त्रादि - पॉलीएस्टर और पॉलीमाइड की मच्छरदानियाँ	आईएस 14953:2001	2002 11 14



[फा. सं. सीएमडी-1/13 : 9]
पी. दक्षिणामूर्ति, अपर महानिदेशक

Ministry of Consumer Affairs, Food and Public Distribution
(Department of Consumer Affairs)
BUREAU OF INDIAN STANDARDS

New Delhi, the 12th December, 2002

S. O. 766.— In pursuance of sub-rule (1) of Rule 9 of the Bureau of Indian Standards Rule 1987, the Bureau of Indian Standards, hereby notified the Standard Marks for the Indian Standards given in the schedule :

THE SCHEDULE

Sl.NO	Design of the Standards Mark	Product/Class of product	No.& year of the Indian Standards	Effective Date
(1)	(2)	(3)	(4)	(5)
1	IS 307 	Carbon Dioxide	IS 307:1966	2000 10 23
2	IS 14953 	Textiles - Polyester or Polyamide Mosquito Nets	IS 14953:2001	2000 11 14



[No. CMD-1/13 : 9]
P. DAKSHINAMURTY, Addl. Director General

भारतीय मानक ब्यूरो

नई दिल्ली, 4 फरवरी, 2003

का. आ. 767.— भारतीय मानक ब्यूरो नियम 1987 के नियम 9 के उपनियम(1) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए भारतीय मानकों सम्बन्धी मानक मुहर (इको लोगो सहित) के डिजाइन निर्धारित कर दिए गए हैं :-

अनुसूची

क्रम संख्या	मानक मुहर (इको लोगो सहित) का डिजाइन	उत्पाद/ उत्पाद की श्रेणी	भारतीय मानक की संख्या और वर्ष	लागू होने की तिथि
(1)	(2)	(3)	(4)	(5)
1		लिखने व प्रिंटिंग पैपर	आईएस 1848:1991	1998 09 10
2		सादा फोटो कॉपी पेपर	आईएस 14490:1997	2001 07 10

[फा. सं. सीएमडी-1/13 : 9]



पी. दक्षिणामूर्ति, अपर महानिदेशक

BUREAU OF INDIAN STANDARDS

New Delhi, the 4th February, 2003

S. O. 767.— In pursuance of sub-rule (1) of Rule 9 of the Bureau of Indian Standards Rule 1987, the Bureau of Indian Standards (with eco logo), hereby notified the Standard Marks for the Indian Standards given in the schedule :

THE SCHEDULE

Sl.No	Design of the Standards Mark (with eco logo)	Product/Class of product	No.& year of the Indian Standards	Effective Date
(1)	(2)	(3)	(4)	(5)
1		Writing and Printing Papers	IS 1848:1991	1998 09 10
2		Plain Copier Paper	IS 14490:1997	2001 07 10

[No. CMD-1/13 : 9]

P. DAKSHINAMURTY, Addl. Director General






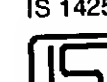
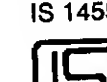
शुद्धि - पत्र

नई दिल्ली, 21 फरवरी, 2003

का. आ. 768.— भारत के राजपत्र भाग II खंड 3, उपखंड (ii) में प्रकाशित उपभोक्ता मामले और सार्वजनिक वितरण मंत्रालय (उपभोक्ता विभाग) भारतीय मानक ब्यूरो नई दिल्ली की अधिसूचना संख्या केप्रवि/13:9 में निम्नलिखित संशोधन किया जाता है :-

संदर्भ : कॉलम 2 (मानक मुहर का डिजाइन)

का.आ.3251 दिनांक 1 दिसम्बर 2001 संख्या 48, पृष्ठ 7011
का.आ. 1872 दिनांक 8 जून 2002 संख्या 23 पृष्ठ 5317

के लिए	पढ़ें
आईएस 10244	IS 10244 
आईएस 11063	IS 11063 
आईएस 13333	IS 13333 
आईएस 14183	IS 14183 
आईएस 14184	IS 14184 
आईएस 14250	IS 14250 
आईएस 14552	IS 14552 

[फा. सं. सीएमडी-1/13 : 9]
बलवन्त राय, निदेशक एवं प्रमुख (केन्द्रीय मुहर-1)

CORRIGENDUM








New Delhi, the 21st February, 2003

S. O. 768.— In the Notification No. CMD-I/13:9 published in Part II, Section 3 - Sub-section (ii) of the Gazette of India by Ministry of Consumer Affairs and Public Distribution (Department of Consumer Affairs) and Bureau of Indian Standards, New Delhi, the following corrections are made:

Ref : Column 2 (Design of the Standard Mark)

S.O. 3251 dated 1st December 2001, No. 48, Page No. 7011

S.O. 1872 dated 8th June 2002, No. 23, Page No. 5317

For	Read
IS 10244	IS 10244 
IS 11063	IS 11063 
IS 13333	IS 13333 
IS 14183	IS 14183 
IS 14184	IS 14184 
IS 14250	IS 14250 
IS 14552	IS 14552 

[No. CMD-I/13 : 9]

BALWANT RAI, Director & Head (Central Marks-I)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 4 मार्च, 2003

का. आ. 769.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 80 तारीख 09 जनवरी 2002, का आ. 2285 और का. आ. 2286 तारीख 4 जुलाई 2002 द्वारा गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपात तक जामनगर-भोपाल पाइपलाइन परियोजना के माध्यम से पुनः गैसीकृत द्रवित प्राकृतिक गैस के परिवहन के लिए गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 8, 9 फरवरी और 5, 9 और 10 अगस्त 2002 को उपलब्ध करा दी गई थीं ;

और पाइपलाइन बिछाने के संबंध में, जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अनुज्ञात कर दिया गया है ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः, अब केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची

तहसील : देपालपुर

जिला : इंदौर

राज्य : मध्यप्रदेश

गांव का नाम

सर्वे नंबर

क्षेत्रफल

हेक्टेयर

आरे

सेन्टीयर

1	2	3	4	5
1. रूनावदा	53/2	0	5	25
	51/1/5	0	20	10
	51/1/12	0	54	25
	51/2	0	46	85
	58	0	24	70
	59	0	19	10
2. खिरेली	4/3	0	71	75
	4/2	0	28	90
	7/1	0	6	35
	7/3	0	4	10
	7/2	0	10	55
	6/2	0	12	10
	6/1	0	11	10
	5	0	23	55
	8/1	0	6	55
	128/1	0	73	25
	127	0	40	40
	123/1	0	61	20
	126	0	27	15
3. देपालपुर	1088	0	14	80
4. बरोली हौज	137/1/1/4/1ग	0	38	85
5. अहिरखेडी	319/1	0	4	60
	319/2	0	0	45

[फा. सं. एल.-14014/32/01-जी.पी.]

स्वामी सिंह, निदेशक

Ministry of Petroleum and Natural Gas

New Delhi, the 4th March, 2003

S.O. 769.— Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 80, dated the 9th January, 2002, S.O. 2285 and S.O. 2286 dated 4th July, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of regassified liquefied natural gas through the Jamnagar-Bhopal Pipeline Project from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh by Gas Transportation and Infrastructure Company Limited;

And whereas copies of the said Gazette notification were made available to the public on the 8th, 9th February and 5th, 9th, 10th August, 2002;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the competent authority;

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited free from all encumbrances.

SCHEDULE

State: Madhya Pradesh

Tehsil : Depalpur

District : Indore

Name of the Village

Survey No

AREA

Hectare

Are

C-Are

1	2	3	4	5
1. Runavada	53/2	0	5	25
	51/1/5	0	20	10
	51/1/12	0	54	25
	51/2	0	46	85
	58	0	24	70
	59	0	19	10
2. Khireli	4/3	0	71	75
	4/2	0	28	90
	7/1	0	6	35
	7/3	0	4	10
	7/2	0	10	55
	6/2	0	12	10
	6/1	0	11	10
	5	0	23	55
	8/1	0	6	55
	128/1	0	73	25
	127	0	40	40
	123/1	0	61	20
	126	0	27	15
3. Depalpur	1088	0	14	80
4. Baroli Hoj	137/1/1/4/1Ga	0	38	85
5. Ahirkhedi	319/1	0	4	60
	319/2	0	0	45

Foot note: Notification S.O.80, 2285&2286 dated 9/1/ 2002, & 4/7/2002 respectively were published in the Gazette of India in part II, section 3, sub-section (ii)

[No. L-14014/32/01-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 4 मार्च, 2003

का. आ. 770.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है), की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं० का. आ. 1150 तारीख 1 अप्रैल, 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मैसर्स गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कंपनी लिमिटेड द्वारा मैसर्स रिलायंस इन्डस्ट्रीज लिमिटेड, जो मैसर्स गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कंपनी लिमिटेड की संप्रवर्तक कंपनी है, के गोवा के उत्तरी/दक्षिणी अपतट के खोज ब्लाकों और आन्ध्रप्रदेश में संरचनाओं से कर्नाटक राज्य में बीजापुर जिले के विभिन्न उपमोक्तों तक प्राकृतिक गैस के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 4 मई 2002 को उपलब्ध करा दी गई थीं ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार का अर्जित किया जाता है ;

और आगे केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त मैसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची 6 (1)

तालुका इंद्री		जिला बिजापुर					
अ. क.	गांव का नाम	सर्वे नं.	हिस्सा नं.	गट नं.	राज्य कर्नाटक		
					क्षेत्र		
1	2	3	4	5	हेक्टेर	आर	सेंटीआर
1	चडवण	297	1		0	62	70
		रास्ता, सर्वे नं. 297 और 307 के बीच में			0	11	50
		307			0	58	80
		308			0	91	00
		310			1	33	80
		311			0	06	90
		320			0	00	50
		317	1		0	21	30
		317	2		0	21	30
		322	1		0	60	00
		323			0	20	90
		324			1	00	20
		329			0	78	00

1	2	3	4	5	6	7	8
	चढचण नीरतर	रास्ता, सर्वे नं. 329 और 388 के बीच में			0	09	50
		380			0	86	70
		379			1	23	00
		368			0	01	30
		369			0	77	20
		365			0	65	80
		360			0	55	80
		गाड़ी रास्ता, सर्वे नं. 355 और 350 के बीच में			0	03	70
		350			0	27	60
		रास्ता, सर्वे नं. 350 और 486 के बीच में			0	07	70
		486			0	26	80
		485			0	76	20
		481			0	61	40
		482			0	76	50
		476			0	02	70
		475	1		0	13	20
		473			0	39	40
		रास्ता, सर्वे नं. 472 और 16 के बीच में			0	06	70
		16	2		0	24	20
		17	2		0	23	30
		18	1		0	27	30
		20			0	29	30
		28			1	01	30
		30			1	05	80
		498			0	01	40
		35	1		0	21	20
		35	2		0	13	50
		35	3		0	22	00
		26	1A		0	03	30
		36			0	99	40
		गाड़ी रास्ता, सर्वे नं. 36 और 38/1,2,3 के बीच में			0	07	00
		38	1		0	56	40
	कुल				19	63	50
2	हाविनाळ	बोरी नदी सर्वे नं. 240 के पास			0	33	40
		240			0	73	80
		237	1A		0	09	00
		237	1B		0	09	60
		237	2A		0	54	80
		237	2B		0	04	00
		239	2		0	56	20
		239	1B2		0	32	40
		242	2B		0	23	90
		नाला, सर्वे नं. 242 और 180 के बीच में			0	08	40
		रास्ता, सर्वे नं. 180 में			0	06	80
		174	3		0	27	30
		174	2		0	12	00

तालुका इंदौर		जिला बजापुर			राज्य कर्नाटक		
अ. क.	गाव का नाम	सर्वे नं.	हिस्सा नं.	गट नं.	क्षेत्र		
1	2	3	4	5	हेक्टेर	आर	सेंटीआर
1	2	3	4	5	6	7	8
	डाविनाळ नीरतर	173	2A		0	20	20
		173	2B		0	15	60
		170	2		0	53	80
		170	1		0	00	30
		169	2		0	25	80
		169	1		0	25	80
		167	1A		0	10	30
		167	1B		0	10	50
		167	1C		0	11	10
		167	1D		0	10	30
		166			0	35	60
		164	1		0	24	90
		162			0	34	80
		161	1		0	35	80
		156	1		0	86	70
		156	2B		0	82	80
		155			0	88	20
		87	1		0	46	80
		87	2		0	41	10
		88			1	08	60
		89			1	36	80
		90	1		0	31	80
		90	2		0	24	60
	नाला, सर्वे नं. 90 और 98 के बीच में				0	12	90
	नाला, सर्वे नं. 98 और 92 के बीच में				0	03	60
	92				1	60	80
	नाला, सर्वे नं. 92 और 93 के बीच में				0	07	30
	93				0	51	70
	गाडी रास्ता, सर्वे नं. 93 और 66/2 के बीच में				0	10	90
	66		2		0	43	20
	कुल				16	04	20
3	हत्तळि	159	2		0	20	00
		158			0	42	10
		157	1		0	16	20
		157	2		0	12	60
		157	3		0	14	40
		156			0	45	80
		155			0	44	40
		154			0	44	90
	नाला, सर्वे नं. 154 और 153 के बीच में				0	11	70
	कुल				2	52	10

1	2	3	4	5	6	7	8
4	कचिनाळ	13	1A		1	29	90
		13	1C		0	27	90
		15			0	59	70
		19			0	54	50
		20			0	67	70
		22	1		0	24	60
	कुल				3	64	30
5	केरुर	118			0	39	30
		117	1		0	00	20
		117	2		0	37	60
	रास्ता, सर्वे नं. 117 और 81 के बीच में				0	06	00
		81			0	23	40
		82			0	63	40
		83			0	40	30
		88			1	16	00
	गाड़ी रास्ता, सर्वे नं. 88 और 69 के बीच में				0	04	80
		69			0	84	20
		71			0	50	60
	गाड़ी रास्ता, सर्वे नं. 71 और 55 के बीच में				0	05	10
		55	1		0	25	20
		55	2		0	28	50
		59	1		0	18	70
		59	2		0	17	20
		58	1		0	23	20
		58	2		0	19	50
		51	1A		0	43	40
		51	2		0	34	80
		50			0	45	00
		49	1		0	16	60
	नाला, सर्वे नं. 49 में				0	10	80
	गाड़ी रास्ता, सर्वे नं. 49 में				0	02	50
		9			0	55	20
		48	2		0	70	00
	कुल				8	81	50
6	तद्वेबोडी	218			0	85	60
		215			0	15	80
		211	1		0	22	30
		211	2		0	14	40
		210			0	38	10
	नाला, सर्वे नं. 209 और 156 के बीच में				0	07	00
		156	1A2		0	36	70
		156	1B		0	49	80
		156	2		0	00	10
	रास्ता, सर्वे नं. 156 में				0	05	80
	नाला, सर्वे नं. 159 में				0	04	30
		159	1		0	17	90

1	2	3	4	5	6	7	8
	तद्धेवोडी नीरंतर	161			0	59	40
		135	1		0	66	70
	गाडी रास्ता, सर्वे नं. 134 और 135 के बीच में				0	05	40
		135	2		0	17	70
	नाला, सर्वे नं. 134 और 135 के बीच में				0	01	30
		225	A		0	07	20
		136			0	16	80
		137			0	26	40
	नाला, सर्वे नं. 137 और 138 के बीच में				0	09	20
		138			0	15	30
		139	1		0	13	20
		139	2		0	13	20
		140			0	16	20
		141	1		0	08	40
		141	2		0	28	20
		143	2/2		0	58	20
	कुल				6	60	60
7	भरगुर	नाला			0	17	80
		136			0	30	30
		134	1		1	14	20
		135	1		0	30	60
		135	2		0	15	00
		135	3		0	14	40
		135	4		0	20	40
	गाडी रास्ता, सर्वे नं. 135 और नाला के बीच में				0	04	10
	नाला				0	03	00
		101			0	31	60
		90			0	76	10
		91			0	45	30
		95 P			0	89	80
		94	2B		1	08	60
	नाला, सर्वे नं. 94 और गाडी रास्ता के बीच में				0	18	60
	नाला सर्वे नं. 69 और नाला के बीच में				0	05	50
		69			0	72	50
		70			0	71	90
		71			0	56	40
		66			0	25	20
	गाडी रास्ता, सर्वे नं. 66 और 49 के बीच में				0	04	50
		49	1		0	41	40
		49	2		0	97	20
	नाला, सर्वे नं. 49 और 52 के बीच में				0	03	20
		52			0	54	30
	कुल				10	51	90

1	2	3	4	5	6	7	8
8	धूळखेड	138			0	91	70
		141	1		0	03	30
		144			0	73	90
	एन एच - 13 सर्वे नं. 112 और 144 के बीच में				0	14	90
		112			1	33	00
	नाला, सर्वे नं. 112 और 115 के बीच में				0	03	10
		115	1		0	89	20
		114			0	00	70
		116			0	54	90
	गाडी रास्ता, सर्वे नं. 116 और 117 के बीच में				0	05	30
		117			0	57	50
		118			0	15	70
		119			0	21	10
		120			0	11	10
		121	1		0	03	20
		121	2		0	55	80
		122			0	18	70
		123			0	46	00
	कुल				6	99	10
9	चणेगांव	215	1		0	13	00
		215	2		0	31	90
		215	3		0	31	20
		215	4		0	33	60
		215	5		0	13	60
	नाला, सर्वे नं. 215 और 190 के बीच में				0	06	30
		190			0	50	90
		186			1	26	10
		185			0	28	50
		184			0	59	70
	नाला, सर्वे नं. 180 और 184 के बीच में				0	04	50
		180			1	07	70
	कुल				5	07	00
10	शिरगुर	45			0	04	70
		46	1		0	77	20
		46	2		0	65	50
	रास्ता, सर्वे नं. 45 और 46 के बीच में				0	03	80
		42	1		0	44	60
	44 (सरकारी भूमि)				0	00	90
		17	A2		0	43	80
		17	A3		0	62	90
		18	A1		0	12	60
		16	A		0	72	20
		15			0	76	50
		12	2		0	62	90

1	2	3	4	5	6	7	8
	शिरगुर नीरंतर	गाडी रास्ता, सर्वे नं. 12 और 15 के बीच में			0	06	20
		14			0	09	60
		भीमा नदी			0	68	90
	कुल				6	12	30

[फा. सं. एल.-14014/22/02-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 4th March, 2003

S. O. 770.— Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O. 1150 dated the 1st April, 2002 published in the Gazette of India dated 6th April 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for Transport of Natural Gas from, the exploration blocks in the Northern / Southern Offshore of Goa and Structures in Andhra Pradesh of M/s Reliance Industries Limited, the promoter company of M/s Gas Transportation and Infrastructure Company Limited to the various consumers of District Bijapur in the State of Karnataka by M/s Gas Transportation and Infrastructure Company Limited;

And whereas copies of the said Gazette notification were made available to the public on 4th May 2002;

And whereas the Competent Authority has, under sub-section (1) of section 6 of said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired, for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited free from all encumbrances.

SCHEDULE - 6(1)							
Taluka - Indi		District : Bijapur			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
1	Chadchan	297	1		0	62	70
		Road between Sy. No. 297 & 307			0	11	50
		307			0	58	80
		308			0	91	00
		310			1	33	80
		311			0	06	90
		320			0	00	50
		317	1		0	21	30
		317	2		0	21	30
		322	1		0	60	00
		323			0	20	90
		324			1	00	20
		329			0	78	00
		Road between Sy. No. 329 & 388			0	09	50
		380			0	86	70
		379			1	23	00
		368			0	01	30
		369			0	77	20
		365			0	65	80
		360			0	55	80
		Cart Track between Sy. No. 355 & 350			0	03	70
		350			0	27	60
		Road between Sy. No. 350 & 486			0	07	70
		486			0	26	80
		485			0	76	20
		481			0	61	40
		482			0	76	50
		476			0	02	70
		475	1		0	13	20
		473			0	39	40
		Road between Sy. No. 472 & 16			0	06	70

Taluka - Indi		District : Bijapur			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
	Chadchan Contd	16	2		0	24	20
		17	2		0	23	30
		18	1		0	27	30
		20			0	29	30
		28			1	01	30
		30			1	05	80
		498			0	01	40
		35	1		0	21	20
		35	2		0	13	50
		35	3		0	22	00
		26	1A		0	03	30
		36			0	99	40
	Cart Track between Sy. No. 36 & 38/1,2,3				0	07	00
		38	1		0	56	40
Total: -					19	63	50
2	Havinal	Bori River Near Sy. No. 240			0	33	40
		240			0	73	80
		237	1A		0	09	00
		237	1B		0	09	60
		237	2A		0	54	80
		237	2B		0	04	00
		239	2		0	56	20
		239	1B2		0	32	40
		242	2B		0	23	90
	Nala between Sy. No.242 & 180				0	08	40
	Road in Sy. No. 180				0	06	80
		174	3		0	27	30
		174	2		0	12	00
		173	2A		0	20	20
		173	2B		0	15	60
		170	2		0	53	80
		170	1		0	00	30

Taluka - Indi		District : Bijapur			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
	Havinal Contd	169	2		0	25	80
		169	1		0	25	80
		167	1A		0	10	30
		167	1B		0	10	50
		167	1C		0	11	10
		167	1D		0	10	30
		166			0	35	60
		164	1		0	24	90
		162			0	34	80
		161	1		0	35	80
		156	1		0	86	70
		156	2B		0	82	80
		155			0	88	20
		87	1		0	46	80
		87	2		0	41	10
		88			1	08	60
		89			1	36	80
		90	1		0	31	80
		90	2		0	24	60
		Canal in Sy. No. 90 & 98			0	12	90
		Canal in Sy. No. 98 & 92			0	03	60
		92			1	60	80
		Nala in Sy. No. 92 & 93			0	07	30
		93			0	51	70
		Cart Track between Sy. No. 93 & 66/2			0	10	90
		66	2		0	43	20
	Total: -				16	04	20
3	Hathalli	159	2		0	20	00
		158			0	42	10
		157	1		0	16	20
		157	2		0	12	60

Taluka - Indi		District : Bijapur			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
	Hathalli Contd	157	3		0	14	40
		156			0	45	80
		155			0	44	40
		154			0	44	90
	Canal between Sy. No. 154 & 153				0	11	70
	Total: -				2	52	10
4	Kanchinal	13	1A		1	29	90
		13	1C		0	27	90
		15			0	59	70
		19			0	54	50
		20			0	67	70
		22	1		0	24	60
	Total: -				3	64	30
5	Kerur	118			0	39	30
		117	1		0	00	20
		117	2		0	37	60
	Road between Sy. No. 117 & 81				0	06	00
		81			0	23	40
		82			0	63	40
		83			0	40	30
		88			1	16	00
	Cart Track between Sy. No. 88 & 69				0	04	80
		69			0	84	20
		71			0	50	60
	Cart Track between Sy. No. 71 & 55				0	05	10
		55	1		0	25	20
		55	2		0	28	50
		59	1		0	18	70
		59	2		0	17	20
		58	1		0	23	20

Taluka - Indi		District : Bijapur			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
	Kerur Contd	58	2		0	19	50
		51	1A		0	43	40
		51	2		0	34	80
		50			0	45	00
		49	1		0	16	60
	Canal in Sy. No. 49				0	10	80
	Cart Track in Sy. No. 49				0	02	50
		9			0	55	20
		48	2		0	70	00
Total: -					8	81	50
6	Taddewadi	218			0	85	60
		215			0	15	80
		211	1		0	22	30
		211	2		0	14	40
		210			0	38	10
	Canal between Sy. No. 209 & 156				0	07	00
		156	1A2		0	36	70
		156	1B		0	49	80
		156	2		0	00	10
	Road in Sy. No. 156				0	05	80
	Canal in Sy. No. 159				0	04	30
		159	1		0	17	90
		161			0	59	40
		135	1		0	66	70
	Cart Track between Sy. No. 134 & 135				0	05	40
		135	2		0	17	70
	Canal between Sy. No. 134 & 135				0	01	30
		225	A		0	07	20
		136			0	16	80
		137			0	26	40
	Canal between Sy. No. 137 & 138				0	09	20

Taluka - Indi		District : Bijapur			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
1	2	3	4	5	Hectare	Are	Centiare
					6	7	8
	Taddewadi Contd	138			0	15	30
		139	1		0	13	20
		139	2		0	13	20
		140			0	16	20
		141	1		0	08	40
		141	2		0	28	20
		143	2/2		0	58	20
	Total: -				6	60	60
7	Margur	STREAM			0	17	80
		136			0	30	30
		134	1		1	14	20
		135	1		0	30	60
		135	2		0	15	00
		135	3		0	14	40
		135	4		0	20	40
		Cart Track between Sy. No. 135 & Canal			0	04	10
		Canal			0	03	00
		101			0	31	60
		90			0	76	10
		91			0	45	30
		95 P			0	89	80
		94	2B		1	08	60
		Nala between Sy. No. 94 & CT			0	18	60
		Cart Trak between Nala & Sy. No. 69			0	05	50
		69			0	72	50
		70			0	71	90
		71			0	56	40
		66			0	25	20
		Cart Track between Sy. No. 66 & 49			0	04	50

Taluka - Indi		District : Bijapur			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
	Margur Contd	49	1		0	41	40
		49	2		0	97	20
	Canal between Sy. No. 49 & 52				0	03	20
		52			0	54	30
	Total: -				10	51	90
8	Dhulkhed	138			0	91	70
		141	1		0	03	30
		144			0	73	90
	NH - 13 between Sy. No. 112 & 144				0	14	90
		112			1	33	00
	Canal between Sy. No. 112 & 115				0	03	10
		115	1		0	89	20
		114			0	00	70
		116			0	54	90
	Cart Track between Sy. No. 116 & 117				0	05	30
		117			0	57	50
		118			0	15	70
		119			0	21	10
		120			0	11	10
		121	1		0	03	20
		121	2		0	55	80
		122			0	18	70
		123			0	46	00
	Total: -				6	99	10
9	Chanegaon	215	1		0	13	00
		215	2		0	31	90
		215	3		0	31	20
		215	4		0	33	60
		215	5		0	13	60
	Canal between Sy. No. 215 & 190				0	06	30
		190			0	50	90
		186			1	26	10
		185			0	28	50

Taluka - Indi		District : Bijapur			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
	Chanegaon Contd	184			0	59	70
	Canal between Sy. No. 180 & 184				0	04	50
		180			1	07	70
	Total: -				5	07	00
10	Shirgur	45			0	04	70
		46	1		0	77	20
		46	2		0	65	50
	Road between Sy. No. 45 & 46				0	03	80
		42	1		0	44	60
	44 (Govt Land)				0	00	90
		17	A2		0	43	80
		17	A3		0	62	90
		18	A1		0	12	60
		16	A		0	72	20
		15			0	76	50
		12	2		0	62	90
	Cart Track between Sy. No. 12 & 15				0	06	20
		14			0	09	60
	BHIMA RIVER				0	68	90
	Total: -				6	12	30

[No. L-14014/22/02-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 4 मार्च, 2003

का. आ. 771.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 301 तारीख 01 फरवरी, 2002 और का आ. 1722 तारीख 21 मई 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपात तक जामनगर-भोपाल पाइपलाइन परियोजना के माध्यम से पुनः गैसीकृत द्रवित प्राकृतिक गैस के परिवहन के लिए गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी ;

और उक्त अधिसूचना की प्रतियाँ जनता को क्रमशः तारीख 8 मार्च 2002, 17 मई, 2002 और 13 अगस्त, 2002 को उपलब्ध करा दी गई थीं ;

और पाइपलाइन बिछाने के संबंध में, जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया गया है ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची				
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तालुका : लीमखेडा

जिला : दाहोद

राज्य : गुजरात

गाव का नाम	सर्वे नंबर / ब्लोक नंबर	क्षेत्रफल		
		हेक्टर	आरे	स्केर मी.
1	2	3	4	5
1. लूखावाडा	55/2/पैकी	0	06	20
	55/2/पैकी	0	05	30
टोटल -		0	11	50

तालुका : झालोद

जिला : दाहोद

राज्य : गुजरात

गाव का नाम	सर्वे नंबर / ब्लोक नंबर	क्षेत्रफल		
		हेक्टर	आरे	स्केर मी.
1	2	3	4	5
1. आंबा	215/1	0	30	10
	209/1	0	02	00
	173/1	0	42	30
	173/2	0	29	00
टोटल -		1	03	40

तालुका : देवगढबारीया

जिला : दाहोद

राज्य : गुजरात

गाव का नाम	सर्वे नंबर / ब्लोक नंबर	क्षेत्रफल		
		हेक्टर	आरे	स्केर मी.
1	2	3	4	5
1. असाइडी	191/पैकी	0	18	40
टोटल -		0	18	40

[फा. सं. एल.-14014/14/02-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 4th March, 2003

S. O. 771.— Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 301, Dated the 1st February, 2002 & S.O. 1722 Dated 21st May, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of regassified liquefied natural gas through the Jamnagar-Bhopal Pipeline Project from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh by Gas Transportation and Infrastructure Company Limited;

And whereas copies of the said Gazette notification were made available to the public on the 8th March, 2002, 17th May, 2002 and 13th August, 2002;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the competent authority;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited free from all encumbrances.

SCHEDULE

Taluka : LIMKHEDA

District : DAHOD

State : Gujarat

Name of the Village	Survey No. / Block No.	Hectare	Area	Sq.Mtr.
1	2	3	4	5
1. LUKHAWADA	55/2/P	0	06	20
	55/2/P	0	05	30
Total :-		0	11	50

Taluka : JHALOD

District : DAHOD

State : Gujarat

Name of the Village	Survey No. / Block No.	Area		
		Hectare	Are	Sq.Mtr.
1	2	3	4	5
1. AAMBA	215/1	0	30	10
	209/1	0	02	00
	173/1	0	42	30
	173/2	0	29	0
	Total :-	1	03	40

Taluka : DEVGADBARIA

District : DAHOD

State : Gujarat

Name of the Village	Survey No. / Block No.	Area		
		Hectare	Are	Sq.Mtr.
1	2	3	4	5
1. ASAIDI	191/P	0	18	40
Total :-		0	18	40

Foot note: Notification S.O.301, 1722 dated 1/2/2002 & 21/5/2002 respectively were published in the Gazette of India in part II, section 3, sub-section (ii)

[No. L-14014/14/02-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 4 मार्च, 2003

का. आ. 772.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 369 तारीख 01 फरवरी, 2002, का आ. 1654 तारीख 13 मई, 2002 और का. आ. 2068 तारीख 19 जून, 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपात तक जामनगर-भोपाल पाइपलाइन परियोजना के माध्यम से पुनः गैसीकृत द्रवित प्राकृतिक गैस के परिवहन के लिए गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को क्रमशः तारीख 25 जुलाई, 2002, 23 मार्च, 2002 और 08 अगस्त, 2002 को उपलब्ध करा दी गई थीं ;

और पाइपलाइन बिछाने के संबंध में, जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया गया है ;

और, सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची

तालुका : दाहोद

जिला : दाहोद

राज्य : गुजरात

गाव का नाम

सर्वे नंबर / ब्लोक नंबर

हेक्टर

क्षेत्रफल

आरे

स्क्वैर मी.

1	2	3	4	5
1. कोटडा बूजर्ग	105	0	16	30
	101	0	79	50
	102	0	55	20
	103	0	09	70
	94/अ	0	34	90
	38/क	0	10	90
	41/अ	0	64	80
	42/ब	0	01	20
	45	0	00	60
	43	0	35	90
	44/अ	0	19	30
टोटल		3	28	30
2. खरेडी	463/पी	0	13	70
	463/पी	0	05	00
टोटल		0	18	70
3. खरोड	371/1	0	07	00
	371/2	0	16	00
टोटल		0	23	00
4. खूट खेडा	31/1	0	00	40
टोटल		0	00	40
5. धामरडा	136	0	17	10
टोटल		0	17	10

[फा. सं. एल.-14014/13/02-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 4th March, 2003

s. O. 772.— Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 369, Dated the 01st February, 2002, S.O. 1654 Dated 13th May, 2002, & S.O. 2068 Dated 19th, June, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of regassified liquefied natural gas through the Jamnagar-Bhopal Pipeline Project from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh by Gas Transportation and Infrastructure Company Limited;

And whereas copies of the said Gazette notification were made available to the public on the 25th, July, 2002, 23rd, March, 2002 and 8th August, 2002;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the competent authority;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited free from all encumbrances.

SCHEDULE				
Taluka : DAHOD		District : DAHOD		State : Gujarat
Name of the Village	Survey No.	Hectare	Area Are	Sq.Mtr.
1	2	3	4	5
1. KOTADA BUZARG	105	0	16	30
	101	0	79	50
	102	0	55	20
	103	0	09	70
	94/A	0	34	90
	38/C	0	10	90
	41/A	0	64	80
	42/B	0	01	20
	45	0	00	60
	43	0	35	90
	44/A	0	19	30
Total :-		3	28	30

2. KHAREDI	463/P	0	13	70
	463/P	0	05	00
Total :-		0	18	70
3. KHAROD	371/1	0	07	00
	371/2	0	16	00
Total :-		0	23	00
4. KHUT KHEDA	31/1	0	00	40
		0	00	40
Total :-		0	17	10
Total :-		0	17	10

Foot note: Notification S.O.369, 1654&2068 dated 1/2/ 2002, 13/5/02 & 19/6/2002 respectively were published in the Gazette of India in part II, section 3, sub-section (ii).

[No. L-14014/13/02-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 6 मार्च, 2003

का. आ. 773.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं० का०आ० 4013 तारीख 27 दिसम्बर, 2002 द्वारा, जो भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 28 दिसम्बर, 2002 में प्रकाशित की गई थी, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में इंडियन आयल कारपोरेशन द्वारा उत्तर प्रदेश राज्य में मथुरा से टूण्डला तक पेट्रोलियम उत्पादों के परिवहन के लिए शाखा पाइपलाइन विछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 09 जनवरी 2003 को उपलब्ध करा दी गई थी;

और सक्षम अधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

आर केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार अर्जित किया जाता है ;

आर केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए सभी बिल्लिंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा ।

अवसूची**तहसील : मथुरा****जिला : मथुरा****राज्य : उत्तर प्रदेश**

गांव का नाम	खसरा सं०	क्षेत्रफल		
		हेक्टेयर	आर	वर्गमीटर
1	2	3	4	5
झण्डीपुर बांगर	77	00	10	06

[फा. सं. आर-25011/18/2002-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 6th March, 2003

S.O. 773.— Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 4013 dated 27th December, 2002 published in the Gazette of India dated 28th December, 2002 in part II, Section 3, Sub-section (ii) issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying branch pipeline for the transportation of petroleum products from Mathura to Tundla in the State of Uttar Pradesh by the Indian Oil Corporation Limited;

And whereas, the copies of the said gazette notification were made available to the public on the 9th January 2003;

And whereas, the competent authority in pursuance of sub-section (1) of section 6 of the said Act, has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by the sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the schedule appended to this notification is hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of users in the said land shall instead of vesting in the Central Government, vest from the date of publication of this declaration in the Indian Oil Corporation Limited, free from all encumbrances.

Schedule

Teshil – Mathura	District – Mathura	State – Uttar Pradesh		
Name of Village	Khasra No.	Area		
		Hectare	Are	Square Metre
1	2	3	4	5
Jhandipur Bangar	77	00	10	06

[No. R-25011/18/2002-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 6 मार्च, 2003

का. आ. 774.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 3151 तारीख 1 अक्टूबर 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट राजस्थान राज्य की तहसील : किशनगढ़ जिला : अजमेर की भूमि में इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा सलाया मथुरा पाइपलाइन प्रणाली परियोजना के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्धन के क्रियान्वयन के लिए गुजरात राज्य में विरमगाम से राजस्थान राज्य में चाकसू होते हुए हरियाणा राज्य में पानीपत तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 22 अक्टूबर 2002 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार अर्जित किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन के तारीख से केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : किशनगढ़	जिला : अजमेर	राज्य : राजस्थान		
गाँव का नाम	खसरा सं.	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
गोठियाना	75	0	01	58
झिरोता	89/1	0	20	67
	89/2	0	20	84
	89/3	0	08	35
ढसुक	817/1153	0	07	93
	131/3	0	04	86
	144/2/1	0	04	41
सांडियावड़ कला	65/5/219	0	09	68

फुटनोट:

- अधिसूचना संख्या का.आ०. 3151 तारीख 1 अक्टूबर 2002 भारत के राजपत्र भाग II खण्ड 3 उपखण्ड (ii) तारीख 5 अक्टूबर 2002 में प्रकाशित हुआ।

[फ़. सं. आर-25011/12/2001-ओ.आर-1]
रेनुका कुमार, अवर सचिव

New Delhi, the 6th March, 2003

S.O. 774.— Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S.O. 3151 dated 01.10.2002 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land in Tehsil : Kisangarh, District : Ajmer in Rajasthan State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of Crude Oil from Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam-Chaksu, Chaksu-Panipat and Chaksu-Mathura sections of Salaya-Mathura Pipeline System Project;

And whereas, copy of the said notification was made available to the general public on -22/10/2002;

And whereas, the Competent Authority has under sub-section (1) of section 6 of the said Act submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this Notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vests from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

Tehsil : Kisangarh		District : Ajmer		State : Rajasthan	
Name of the village		Khasara No.		Area	
		Hectare		Sq.mtr.	
1	2	3	4	5	
Gothlyana	75	0	01	58	
Zirota	89/1	0	20	67	
	89/2	0	20	84	
	89/3	0	08	35	
Dhasuk	817/1153	0	07	93	
	131/3	0	04	86	
	144/2/1	0	04	41	
Mandiyawar Kala	65/5/219	0	09	68	

Footnote :

- (i) The notification Number S.O. 3151 dated the 1st October, 2002 was published in the Gazette of India Part II Section 3 sub section (ii) dated 5th October 2002.

[No. R-25011/12/2001-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 6 मार्च, 2003

का.आ. 775.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 1537 तारीख 3 जुलाई, 2001 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट राजस्थान राज्य की तहसील : किशनगढ़ जिला : अजमेर की भूमि में इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा सलाया मथुरा पाइपलाइन प्रणाली परियोजना के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्धन के क्रियान्वयन के लिए गुजरात राज्य में विरमगाम से राजस्थान राज्य में चाकसू होते हुए हरियाणा राज्य में पानीपत तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने हेतु उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

धारा 3 (1) के अधीन अधिसूचना की संशोधित अधिसूचना और शुद्धिपत्र पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 की धारा 3 की उप-धारा (1) के अधीन जारी गाँव : गोठियाना और झिरोता के कुछ खसरा संख्याओं के संबंध में का.आ. 2760 और 3537, तारीख 28.08.2002 और 08.11.2002 के अधीन जारी किया गया था।

और उक्त संशोधनकारी अधिसूचना और शुद्धिपत्र की प्रतियाँ साधारण जनता को तारीख 09 सितम्बर, 2002 और 28 नवम्बर, 2002 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से उपाबद्ध अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार अर्जित किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन के तारीख से केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : किशनगढ़	जिला : अजमेर	राज्य : राजस्थान		
गाँव का नाम	खसरा सं.	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
गोठियाना	223	0	17	16
	791	0	18	48
	902	0	21	63
झिरोता	287	0	17	17
	196	0	07	02

पाद टिप्पण:-

- 1 अधिसूचना संख्या का.आ0. 2760 तारीख 28 अगस्त 2002 भारत के राजपत्र भाग II खण्ड 3 उपखण्ड (ii) तारीख 31 अगस्त 2002 में प्रकाशित हुआ।
- 2 अधिसूचना संख्या का.आ0. 3537 तारीख 8 नवम्बर 2002 भारत के राजपत्र भाग II खण्ड 3 उपखण्ड (ii) तारीख 9 नवम्बर 2002 में प्रकाशित हुआ।

[फा. सं. आर-25011/12/2001-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 6th March, 2003

S. O. 775.— Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O.No. 1537, dated 03.07.2001 issued under sub section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land in Tehsil : Kisangarh, District : Ajmer in Rajasthan State, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of Crude Oil from Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan by the Indian Oil Corporation Limited for implementing the "Augmentation of Viramgam-Chaksu, Chaksu-Panipat and Chaksu-Mathura sections of Salaya-Mathura Pipeline System Project".

An Amendment notification to notification U/s 3(1) and Corrigendum in respect of certain Khasara Numbers of Village : Gothiyana and Zirola issued under sub-section (i) of Section 3 of Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 was issued under No.S.O. 2760 and 3537, dated 28.08.2002 and 08.11.2002.

And whereas, copy of the said Amendment notification and Corrigendum was made available to the general public on 09.09.2002 and 28.11.2002;

And whereas, the Competent Authority has under sub-section (1) of section 6 of the said Act submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this Notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vests from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

Tehsil : Klsangarh		District : Ajmer		State : Rajasthan	
Name of the village		Khasara No.		Area	
		Hectare	Are	Sq.mtr.	
1	2	3	4	5	
Gothiyana	223	0	17	16	
	791	0	18	48	
	902	0	21	63	
Zirola	287	0	17	17	
	196	0	07	02	

Footnote :

- (i) Notification Number S.O. 2760 dated the 28th August , 2002 was published in the Gazette of India part II Section 3 sub section (i) dated 31st August 02.
- (ii) Notification Number S.O. 3537 dated the 8th November, 2002 was published in the Gazette of India part II Section 3 sub section (ii) dated 9th November, 02.

[No. R-25011/12/2001-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 6 मार्च, 2003

शुद्धिपत्र

का.आ. 776.— भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) तारीख 19 अक्टूबर, 2002 में प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं० का० आ० 3333 तारीख 18 अक्टूबर, 2002 के पृष्ठ 10005 पर, गौंव लाठ के सामने स्तंभ 3 के नीचे मुस्ततील सं० 163, किला नं० 4/2 के सामने क्षेत्रफल "0.06.00" के स्थान पर, क्षेत्रफल "0.06.32" पढ़ें।

[फा. सं. आर-25011/26/2001-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 6th March, 2003

Corrigendum

S.O. 776.— In the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 3333 dated the 18th October 2002, published at pages 10016 to 10036 in part II, section 3, sub-section (ii) of the Gazette of India, dated the 19th October 2002, namely : -

- (i) for page 10034, read page 10030;
- (ii) for pages 10030 to 10033, read pages 10031 to 10034.

[No. R²25011/26/2001-O.R.-1]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 6 मार्च, 2003

का.आ. 777.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 209 तारीख 22 जनवरी 2002, का आ. 2426 और का. आ. 2427 तारीख 5 जुलाई 2002 द्वारा गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपात तक जामनगर-भोपाल पाइपलाइन परियोजना के माध्यम से पुनः गैसीकृत द्रवित प्राकृतिक गैस के परिवहन के लिए गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 19, 20, 25 फरवरी 2002 और 23, 24, 28 अगस्त 2002 को उपलब्ध करा दी गई थी ;

और पाइपलाइन बिछाने के संबंध में, जनता से प्राप्त आक्षेपों पर विचार कर किया लिया गया है और सक्षम प्राधिकारी द्वारा उन्हें अननुज्ञात कर दिया गया है ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची

तहसील : बदनावर		जिला : धार		राज्य : मध्यप्रदेश	
गांव का नाम	सर्वे नंबर	हेक्टेयर	क्षेत्रफल आरे	सेन्टीयर	
1	2	3	4	5	
1. चीराखान	94/4	0	12	25	
	94/1	0	13	45	
	94/2	0	4	55	
	94/3	0	0	65	
	233/1	0	4	75	
	233/2	0	0	45	
	113	0	25	10	
	314	0	3	25	
2. इन्द्रावल	100/2	0	5	30	
	100/3	0	5	25	
	101/2	0	5	20	
	101/3	0	13	65	
	101/4	0	12	20	
3. कडोद कला	171	0	5	15	
	343/1	1	3	80	
4. बामन्दा बडा	95/5	0	18	30	
	14/1/1/4	0	0	85	
5. कडोद खुर्द	36/4/2	0	8	60	
6. नागदा	55	0	31	50	
7. रंगाराखेडी	277/3	0	17	5	
	277/4	0	14	35	
8. सनावदा	183/2/2	0	0	55	
	13/2	0	5	45	
9. सिलोदा बुजुर्ग	316/1	0	11	15	
	71/4	0	0	15	
10. मेहन्तपुरा	1/2	0	0	20	

New Delhi, the 6th March, 2003

S. O. 777.— Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 209, dated the 22nd January, 2002, S.O. 2426 and S.O. 2427 dated 22nd July, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of regassified liquefied natural gas through the Jamnagar-Bhopal Pipeline Project from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh by Gas Transportation and Infrastructure Company Limited;

And whereas copies of the said Gazette notification were made available to the public on the 19th, 20th, 25th February and 23rd, 24th, 28th August, 2002;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the competent authority;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited free from all encumbrances.

SCHEDULE

Tehsil : Badnawar
Name of the Village

District : Dhar
Survey No

State : Madhya Pradesh

AREA

Hectare Are C-Are

1	2	3	4	5
1. Chirakhan	94/4	0	12	25
	94/1	0	13	45
	94/2	0	4	55
	94/3	0	0	65
	233/1	0	4	75
	233/2	0	0	45
	113	0	25	10
	314	0	3	25
2. Indrawal	100/2	0	5	30
	100/3	0	5	25
	101/2	0	5	20
	101/3	0	13	65
	101/4	0	12	20

1	2	3	4	5
3. Kadod Kala	171	0	5	15
	343/1	1	3	80
4. Bamandha Bada	95/5	0	18	30
	14/1/1/4	0	0	85
5. Kadod Khurd	36/4/2	0	8	60
6. Nagda	55	0	31	50
7. Rangara Khedi	277/3	0	17	5
	277/4	0	14	35
8. Sanavada	183/2/2	0	0	55
	13/2	0	5	45
9. Siloda Bujurg	316/1	0	11	15
	71/4	0	0	15
10. Mehantpura	1/2	0	0	20

Foot note: (i) Notification S.O.209 dated the 22nd January, 2002 and was published in the Gazette of India (ii) Notification S.O. 2426 and 2427 both dated the 22nd July, 2002 and were published in the Gazette of India.

[No. L-14014/33/01-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 7 मार्च, 2003

का.आ. 778.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 76 तारीख 09 जनवरी 2002, का आ. 1797 एवं का. आ. 1798 तारीख 27 मई 2002 द्वारा गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपात तक जामनगर-भोपाल पाइपलाइन परियोजना के माध्यम से पुनः गैसीकृत द्रवित प्राकृतिक गैस के परिवहन के लिए गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 19 फरवरी और 20, 21 जून 2002 को उपलब्ध करा दी गई थी ;

और पाइपलाइन बिछाने के संबंध में, जनता की ओर से प्राप्त आपत्तियों पर विचार कर लिया गया है और सक्षम प्राधिकारी द्वारा अननुज्ञात कर दिया गया है ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि पाइपलाइन बिछाने के लिए उक्त भूमि अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः, अब केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में पाइपलाइन बिछाने के उपयोग का अधिकार घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची

तहसील : सांवेर

जिला : इंदौर

राज्य : मध्यप्रदेश

गांव का नाम

सर्वे नंबर

क्षेत्रफल

1	2	हेक्टेयर	आरे	सेन्टीयर
3	4	5		
1. सतलाना	16/1	0	1	15
	16/2/1	0	11	70
	16/2/2	0	2	5
	139	0	65	15
2. पंचढेरिया	206/3	0	1	5
3. रामपिपल्या	194/2	0	21	15
4. लसूडिया परमार	363/424	0	8	50
	363/1	0	2	70
	363/2	0	6	65
	363/3	0	2	20
	370/425/2/1	0	23	50
	370/425/2/3	0	13	85
	401	0	53	0
5. भौंडवास	90/4	0	18	55
	90/6	0	20	55
	90/5	0	37	90
6. डकाच्या जागीर	1272/1	0	25	80
7. कदवाली खुर्द	541/1	0	20	85
	61	0	2	55
8. मण्डलावदा	282/3	0	5	95
9. राहूखेडी	83/2	0	30	95
	82/4	0	5	40

[फा. सं. एल.-14014/27/01-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 7th March, 2003

S. O. 778.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 76, dated the 9th January, 2002, S.O.1797 & S.O.1798 dated 27th May, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of regassified liquefied natural gas through the Jamnagar-Bhopal Pipeline Project from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh by Gas Transportation and Infrastructure Company Limited;

And whereas copies of the said Gazette notification were made available to the public on the 19th February and 20th, 21st June, 2002;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the competent authority;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited free from all encumbrances.

SCHEDULE

Tehsil : Sanwer		District : Indore		State: Madhya Pradesh	
Name of the Village		Survey No		AREA	
			Hectare	Are	C-Are
1	2	3	4	5	6
1. Satiana	16/1	0	1	15	
	16/2/1	0	11	70	
	16/2/2	0	2	5	
	139	0	65	15	
2. Panchderiya	206/3	0	1	5	
3. Rampipliya	194/2	0	21	15	
4. Lasudiya Parmar	363/424	0	8	50	
	363/1	0	2	70	
	363/2	0	6	65	
	363/3	0	2	20	
	370/425/2/1	0	23	50	
	370/425/2/3	0	13	85	
	401	0	53	0	
5. Bhondwas	90/4	0	18	55	
	90/6	0	20	55	
	90/5	0	37	90	
6. Dakatchiya Jagir	1272/1	0	25	80	
7. Kadvali Khurd	541/1	0	20	85	
	61	0	2	55	
8. Mandalvada	282/3	0	5	95	
9. Rahukhedl	83/2	0	30	95	
	82/4	0	5	40	

Foot note: (i) Notification S.O. 76 dated the 9th January, 2002 and was published in the Gazette of India (ii) Notification S.O. 1797 and 1798 both dated the 27th May, 2002 and were published in the Gazette of India.

[No. L-14014/27/01-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 7 मार्च, 2003

का. आ. 779.— केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) की धारा 2 के खंड (क) के अनुसरण में और भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 16 मार्च, 2002 में प्रकाशित को अधिकृत करते हुए नीचे दी गई सारणी के स्तंभ (1) में उल्लिखित व्यक्तियों को उक्त सारणी के स्तंभ (2) में उल्लिखित क्षेत्रों की बाबत, महाराष्ट्र राज्य में अवस्थित विभिन्न उपभोक्ताओं तक वितरण के लिए गोवा के उत्तरी और दक्षिणी समुद्र तट और आन्ध्र प्रदेश की संरचनाओं में से मैरास गैस ट्रांसपोर्टेशन एण्ड इंफ्रास्ट्रक्चर कंपनी लि० (जी.टी. आई. सी. एल.) द्वारा जिसका रजिस्ट्रीकृत कार्यालय आर. पी. एल. हाउस, तीसरा तल, 15 बालचंद हीराचंद मार्ग बालार्ड इस्टेट, मुम्बई 400038 में है, उसकी संवर्धक कंपनी अर्थात् मैसर्स रिलायंस इंडस्ट्रीज लिमिटेड के खोज ब्लॉकों में उत्पादित प्राकृतिक गैस के परिवहन के लिए पाइपलाइन बिछाने के लिए उक्त अधिनियम के अधीन सक्षम प्राधिकारियों के व्यक्तियों का पालन करने के लिए सक्षम प्राधिकारी के रूप में प्राधिकृत करती है।

सारणी

	व्यक्तियों के नाम और पते (1)	अधिकारिता के क्षेत्र (2)
(1)	श्री एस. डी. भिसे, सेवानिवृत्त उपकलेक्टर, महाराष्ट्र राजस्व विभाग, महाराष्ट्र सरकार मार्फत मैसर्स गैस ट्रांसपोर्टेशन एण्ड इंफ्रास्ट्रक्चर कंपनी, आर. पी. एल. हाउस, तीसरा तल 15 बालचंद हीराचंद मार्ग बालार्ड इस्टेट, मुम्बई-400038	महाराष्ट्र राज्य के सिन्धुदुर्ग, कोल्हापुर, शोलापुर और सांगली जिले और लातूर, बीड, धारशिव (पूर्वतर उस्मानाबाद) अहमदनगर, पुणे, सतारा, रायगढ़, रत्नागिरी और थाणे जिले।
(2)	श्री डी. एस. धोत्रे, सेवानिवृत्त उपकलेक्टर, महाराष्ट्र राजस्व विभाग, महाराष्ट्र सरकार मार्फत मैसर्स गैस ट्रांसपोर्टेशन एण्ड इंफ्रास्ट्रक्चर कंपनी, आर. पी. एल. हाउस, तीसरा तल 15 बालचंद हीराचंद मार्ग बालार्ड इस्टेट, मुम्बई-400038	महाराष्ट्र राज्य के सिन्धुदुर्ग, कोल्हापुर, शोलापुर और सांगली जिले और लातूर, बीड, धारशिव (पूर्वतर उस्मानाबाद) अहमदनगर, पुणे, सतारा, रायगढ़, रत्नागिरी और थाणे जिले।

[फा. सं. एल.-14014/9/02-जी.पी. (भाग-1)]

स्वामी सिंह, निदेशक

New Delhi, the 7th March, 2003

S. O. 779.— In pursuance of clause (a) of section 2 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) and in supersession of Notification numbers S.O. 958 dated the 11th March, 2002, published in the Gazette of India Part II, Section 3, Sub-section (ii) on the 16th March, 2002 the Central Government hereby authorize the persons mentioned in the column (1) of the Table given below to perform the functions of the competent authorities under the said Act for laying of the pipeline by M/S Gas Transportation and Infrastructure Company Limited (GTICL) having its Registered Office at R.P.L House, 3rd floor, 15, Walchand Hirachand Marg, Ballard Estate, Mumbai-400038 for transportation of natural gas produced in the exploration blocks of its promoter company, namely; M/S Reliance Industries Limited in Northern and Southern Offshore Goa and structures in Andhra Pradesh for distribution to various consumers located in the State of Maharashtra in respect of the areas mentioned in column (2) of the said Table:-

TABLE

Name and Address of the persons	Areas of jurisdiction
(1)	(2)
1) Shri S.D.Bhise, Retired Deputy Collector of Maharashtra Revenue Department, Government of Maharashtra, C/o M/s Gas Transportation and Infrastructure Company, R.P.L. House, 3 rd floor, 15, Walchand Hirachand Marg, Ballard Estate, Mumbai-400038	Districts of Sindhudurg, Kolhapur, Solapur, Sangli and Districts of Latur, Beed, Dharashiv (earlier Osmanabad), Ahamadnagar, Pune, Satara, Raigad, Ratnagiri and Thane of State of Maharashtra
2) Shri D.S.Dhotre, Retired Deputy Collector of Maharashtra Revenue Department, Government of Maharashtra, C/o M/s Gas Transportation and Infrastructure Company, R.P.L. House, 3 rd floor, 15, Walchand Hirachand Marg, Ballard Estate, Mumbai-400038.	Districts of Sindhudurg, Kolhapur, Solapur, Sangli and Districts of Latur, Beed, Dharashiv (earlier Osmanabad), Ahamadnagar, Pune, Satara, Raigad, Ratnagiri and Thane of State of Maharashtra

[No. L-14014/9/02-G.P.(Pt. I)]
SWAMY SINGH, Director

नई दिल्ली, 7 मार्च, 2003

का. आ. 780.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1651 तारीख 13 मई, 2002 द्वारा गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपात तक पेट्रोलियम उत्पादों के परिवहन के लिए गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 11 जुलाई 2002 को उपलब्ध करा दी गई थीं ;

और पाइपलाइन बिछाने के संबंध में, जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अननुज्ञात कर दिया है ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग का अधिकार अर्जित किया जाता है ;

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से मुक्त गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड में निहित होगा।

अनुसूची

तालुका : वांकाजेर

ज़िला : राजकोट

राज्य : गुजरात

गांव का नाम	सर्वेक्षण संख्या/ खंड संख्या	क्षेत्रफल		
		हेक्टर	एअर	सेन्टीएअर
1	2	3	4	5
1. प्रतापगढ़	111/2/P/1	0	20	80
कुल		0	20	80

[फा. सं. एल.-14014/8/02-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 7th March, 2003

S. O. 780.—Whereas, by a notification of the Government of India in the Ministry of Petroleum and Natural Gas Number S.O. 1651, dated the 13th May, 2002, issued under sub-section (1) of section 3 of the Petroleum and Mineral Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of regassified liquefied natural gas through the Jamnagar – Bhopal Pipeline Project from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh by Gas Transportation and Infrastructure Company Limited;

And whereas copies of the said Gazette notification were made available to the public on the 11th July, 2002;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the competent authority;

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying the Pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited, free from all encumbrances.

SCHEDULE

TALUKA : WANKANER

District : RAJKOT

State : GUJARAT

Name of the Village	Survey No.	AREA		
		Hectare	Are	Sq.Mtr.
1	2	3	4	5
1. PRATAPGADH	111/2/P/1	0	20	80
TOTAL		0	20	80

[No. L-14014/8/02-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 6 फरवरी, 2003

का. आ. 781.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीमेंट कोर्पो. ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ संख्या 87/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-1-2003 को प्राप्त हुआ था।

[सं. एल-42012/1/92-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S. O. 781.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 87/92) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Cement Corpn. of India and their workman, which was received by the Central Government on 31-1-2003.

[No. L-42012/1/92-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

PRESENT : SHRI S. M. GOEL

Presiding Officer

CASE NO. ID 87/92

Shri Pyare son of Shri Rama Nand, VPO Samaspur,
District Bhiwani (Haryana) Deceased through his Lrs.
.....Applicant

Versus

The General Manager, CCI, Charkhi Dadri, District
Bhiwani (Haryana)

....Respondent

APPEARANCES

FOR THE WORKMAN : SHRI B. S. PRABHAKAR

FOR THE MANAGEMENT SHRI H. N. MEHTANI
WITH SHRI ARVIND
KASHYAP

AWARD

(Passed on 24-12-2002)

The Central Govt. vide notification No. L-42012/1/92-IR(Misc.) dated 5th of August, 1992 has referred the following dispute to this Tribunal for adjudication :

“Whether action of the management of CCI, Charkhi Dadri in relation to terminating the services of Shri Pyare alias Pyare Lal w.e.f. 30-6-1991 is just, fair and legal? If not to what relief the workman concerned was entitled and from what date?”

2. The workman expired on 3-8-1998. His Lrs have been taken on record. When he was alive he filed the claim statement pleading therein that he was the employee of the Dalmia Dadri Cement Ltd. and on its closure it was taken over by the Cement Corporation of India Ltd. and according to the policy decision of the management he was engaged on daily wage basis by the management during the year 1982-83 and his services were terminated by the management w.e.f. 1-6-1991. It is further averred in the claim statement that the management recorded his date of birth in the year 1981 as 48 years as per medical opinion of their medical officer which is illegal and unjustified and this is against the principle of the order of the Hon'ble Supreme Court. It is further pleaded in the claim statement that he has not attained the age of superannuation on 30-6-1991 as alleged by the management and the correct age of the applicant during 1991 was only 52 years. He has thus claimed his reinstatement in service with arrears of minimum wage and status of permanent and regular workman and other consequential benefits.

3. The management in written statement has taken the plea that the management have no knowledge of previous employment of the applicant. After taken over by the management from DDCL, the management made fresh recruitment from the ex-employees of the DDCL. Since all the employees of DDCL could not be re-employed by the management a rehabilitation compensation was formulated and approved by the Govt. and as per policy a committee was formulated and as per the report of the committee the union would help ex-employees in forming a cooperative society of its ex-employees and the said society would be awarded contracts/jobs by the C.C.I. In this manner the ex-employees of DDCL became the members of the said cooperative society and the said society functioned under the supervision and control of the aforesaid union. It is further pleaded that there is no direct relationship of master and servant with the workman of the management as he was the member of the said society. It is further pleaded that age of retirement was 58 years and there being no record of date of birth of the applicant his age was assessed as 48 years on 29-12-1981 and he was rightly retired on attaining the age of superannuation, thus the provisions of Section 25-F are not attracted to the case of the applicant. It is further pleaded that the applicant was never engaged by the management thus treating him permanent workman after completing three months does not arise and he was not entitled to any benefits of permanent workman. In the absence of proof of the date of birth, rightly the date of birth has been determined as 48 years as on 29-12-1981 by the medical board and the decision of the Hon'ble Supreme Court is not applicable to the case of the applicant. It is further pleaded that his claim that he was 52 years in 1991 is not borne out by any documentary evidence or any record even during the previous employer or during his casual employment with the management. Thus the management prayed for the rejection of the reference.

4. Replication was also filed reiterating the claim made in the claim statement.

5. In evidence the applicant had examined himself and he had filed his affidavit Ex.W1 and documents Ex.W2 to W9. In rebuttal the management produced Shri C.B. Singh as MW1 who filed his affidavit Ex. M1.

6. I have heard the learned representative of the workman and the learned Counsel for the management and have also gone through the evidence and record. The main controversy in this case revolves around the date of birth of the applicant as on 30-6-1991. The applicant states that he was only 52 years of age while the main plea of the management is that his age was determined by the medical board on 29-12-1981 as 48 years. The learned representative of the workman has argued that the age of the workman was wrongly determined as 48 years as on 29-12-1981 by the medical board and the manner in which his age was determined without conducting prescribed medical test for age determination is totally arbitrary and this is against the principles laid down by the Hon'ble Supreme Court as has been held in Civil Appeal No. 3569 of 1990. It is further argued on behalf of the workman that he was only 52 years as on 30-6-1991 and still six years of service was left when he was retired by the management without payment of any retrenchment compensation and without complying with the provisions of Section 25-F of the I.D. Act, 1947. For his arguments he has relied on the orders of the Hon'ble Supreme Court in the case of Laxmi Narain and others Vs. CCI and order passed by the Hon'ble Punjab & Haryana High Court in CWP No. 5196 of 1992 and order of the Hon'ble Punjab & Haryana High Court in the case of Raghubir Singh Vs. CCI. On the other hand, the counsel for management has argued that the case of the applicant is not covered by any order of the Supreme Court or the High Court as the case of the applicant is different from that of the cases under consideration by the Hon'ble Supreme Court and Hon'ble High Court. It is further argued that the case of the applicant does not fall within first three categories as no date of birth has been mentioned before taking over of the Unit by the CCI from D.D.C.L. and the employee never supplied his date of birth on the basis of State Insurance Certificate and no school leaving certificate has been supplied. It is further argued by the learned counsel for the management that even in the Tribunal itself the workman has not provided his date of birth. I have carefully gone through the contentions made by the learned counsel and learned rep. of the workman. In my considered opinion, the case of the applicant is not covered by the Judgements of the Hon'ble Supreme Court and Hon'ble High Court. The facts of the case of Raghubir Singh (Supra) as cited by the workman is different. In that case, the date of birth was recorded on the basis of earlier record and the management changed this date of birth to the prejudice to the workman.

Thus the Hon'ble High Court has allowed the claim of the applicant. It is admitted fact that the workman has been declared as 48 years as on 29-12-1981 by the Medical Board but he chose to keep mum and ultimately he was retired on attaining the age of superannuation on 30-6-1991. During the period of his casual employment with the management through society, he has never raised any objection about the date of his birth. He has also not given any certificate etc. about his date and age in this Tribunal also. The only thing is that the Medical Board has determined the date of birth of the applicant is by appearance. The Hon'ble Supreme Court in the Civil Appeal No. 3569 of 1990 has also directed that in the cases not covered by any of the above referred three principles, it would be open to the respondent employer to have regular medical examination as per the approved procedure for determination of the age and according to this principle the medical board determined the age of the applicant as 48 years as on 29-12-1981 and there was no objection from the workman about his wrong determination of age. He has only objected to this after he was retired from the service of the management. Thus after the retirement, his objection about the date of birth can not be considered and in my considered opinion, he was rightly retired by the management on attaining the age of superannuation. Thus there is no merit in the reference and the same is answered against the workman. The central Govt. be informed.

S. M. GOEL, Presiding Officer

Chandigarh : 24-12-2002.

नई दिल्ली, 6 फरवरी, 2003

का. आ. 782.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओ. एन. जी. सी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंजाट (संदर्भ संख्या 46/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-1-2003 को प्राप्त हुआ था।

[सं. एल-30012/11/2000-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S. O. 782.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 46/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of O. N. G. C. and their workman, which was received by the Central Government on 31-1-2003.

[No. L-30012/11/2000-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, LUCKNOW

PRESENT

RUDRESH KUMAR
PRESIDING OFFICER

I.D. No.46/2002 (Delhi No.58/90)

Ref. No.L-30012/11/90-I.R.(Vividh) dated 8-6-90

BETWEEN

Balbir Singh S/o Sri Sita Ram
C/o Ishwar Sharma Provision Stores,
Vill. Chanderbani, P.O. Mohobewala,
Dehradun-248001

And

The Chairman, Oil & Natural Gas Commission
Tel Bhawan, Dehradun-248001

AWARD

By Order No. L-30012/11/90-I.R. (Vividh) dated 8-6-90, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) and Section 2(A) of Section 10 of the I.D. Act, 1947 (14 of 1947) referred this industrial dispute between Balbir Singh S/o Sri Sita Ram C/o Ishwar Sharma provisions Stores, Vill. Chanderbani, P.O. Mohobewala, Dehradun and the Chairman, Oil and Natural Gas Commission, Tel Bhawan, Dehradun for adjudication to CGIT-cum-Labour Court, New Delhi. Later, vide Order No. Z-20025/54/2001-CLS dated 19-4-2002, this case was transferred to this tribunal for adjudication.

The reference under adjudication is as under :

“WHETHER THE ACTION OF THE MANAGEMENT OF ONGC IN TERMINATING THE SERVICES OF BALBIR SINGH, S/O SHRI SITA RAM W.E.F. 1-12-87 IS JUSTIFIED. IF NOT, WHAT RELIEF IS THE WORKMAN ENTITLED TO?”

2. In short; the case of the workman, Balbir Singh, is that he was appointed as a contingent worker to discharge duties of Plumber w.e.f. 1-1-80 and worked till 28-2-81. Again, he was appointed on 1-12-1982 and continued to work as Plumber till 10-3-83. Later, the workman was appointed w.e.f. 1-1-84 but was shown to have worked sometime in his name and sometime in changed names of Ram Kumar/Suraj Singh. The total period of working shown in the following chart detailed in para 5 of the claim statement.

Periods	Own Name		Changed Name	
	M.R./M.R.		Ram Kumar	Suraj Singh
1	2	3	4	5
(a) 01-01-84 to 30-06-84	182			
(b) 01-07-84 to 31-10-84			123	
(c) 01-11-84 to 31-12-84		61**		
(d) 01-01-85 to 28-02-85	59			

	1	2	3	4	5
(e) 01-03-85 to 30-04-85				61	
(f) 01-05-85 to 30-09-85		153			
(g) 01-10-85 to 31-12-85				92	
(h) 01-01-86 to 31-03-86		90			
(i) 01-04-86 to 30-06-86					91
(j) 01-07-86 to 30-09-86		92			
TOTAL		576	61	276	91
OWN NAME		637			
AGGREGATE		1,004			

** Payment for this period was made on separate sheet, perhaps HAND RECEIPTS.

3. Though he worked continuously but his services were terminated w.e.f. 30-9-86 without any notice or compensation and thus, rendering the action of termination illegal and inoperative. A dispute was raised by him through the Joint Secretary, ONGC Karamchhari Union, Dehradun but the union entered into a settlement with the management during the conciliation proceeding. Thereafter, he was taken into employment w.e.f. 1-8-87 and also was paid 7 days wages in lieu of notice, in pursuance to said settlement as was recorded in the conciliation proceeding on 10-8-87. The workman was given fixed term appointment from time to time and lastly, till 30-11-87. He was retrenched w.e.f. 1-12-1987 without notice or compensation which is illegal being against the Certified Standing Orders dealing with contingent workers.

4. The management admitted association of the workman as 'Plumber' from 1-1-84 to 30-6-84 for about 182 days but denied that the workman was permitted to work in changed names of Ram Kumar and Suraj Singh. The Management also pleads that during the conciliation proceeding in the dispute raised by the union, there was a settlement and in pursuance to the said settlement, the management paid 7 days wages to the workman in lieu of notice and the dispute stood finally resolved. The workman was given new appointments for fixed period and these appointments were term appointments for specified period and automatically came to an end on expiry of stipulated period. Such automatic termination is not retrenchment under section 2(00) (bb) of the I.D. Act, 1947.

5. Reliance is placed by the workman on Article 2(ii) of the Certified Standing Orders, governing service conditions of the contingent/casual worker which provides that on working for 180 days in twelve calander months, an employee becomes temporary employee entitled to absorbed in regular services. The workman, admittedly had worked for 182 days and so was a temporary employee. Further notice for 7 days as provided under Article 14 (1) of the Certified Standing Orders was not given and so, the termination was illegal. Subsequent payment of notice pay will not cure the illegality and the workman should be treated in employment of ONGC. The submission is further

extended that fixed term appointments subsequent to the settlement should be treated continuously in service and the termination w.e.f. 1-12-87 is illegal and inoperative.

6. The reference seeks adjudication on action of the management dated 1-12-87 whereby services of the workman was not extended. The settlement 10-8-87 is very material to determine liabilities of the parties. This settlement, a copy of which filed by the workman, indicates that alleged termination dated 30-9-86 was legalised by payment of 7 days notice pay. There is nothing to indicate that this settlement was obtained by fraud and so, be treated non-est. The workman accepted notice pay and so acted upon it. It is not open to him to reside and the dispute if any was finally resolved.

7. This settlement provided preferential treatment to provide appointment in future. The workman, accordingly was given short term appointments from time to time, lastly, till 30-11-87. There is nothing in the settlement that the management will provide regular appointment to the workman or treat him in continuous appointment. These appointments were fixed term appointments. There was no termination but cessation of appointment on expiry of appointment on 30-11-87. In effect, such cessation can not be said to be retrenchment under section 2(00) (bb) of the I.D. Act. 1947.

8. Thus, the action of the management can not be faulted. The workman is not entitled to any relief.

LUCKNOW

20-1-2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 6 फरवरी, 2003

का. आ. 783.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ऑयल एण्ड नैचुरल गैस कार्पो. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 573/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-1-2003 को प्राप्त हुआ था।

[सं. एल-30012/166/2000-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S.O. 783.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 573/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil & Natural Gas Corporation Ltd. and their workman, which was received by the Central Government on 31-1-2003.

[No. L-30012/166/2000-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 18th December, 2002

PRESENT : K. KARTHIKEYAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 573/2001

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri R. Pandian and the management of Oil and Natural Gas Corporation Ltd.]

BETWEEN

Sri. R. Pandian : I Party/Workman

AND

Oil & Natural gas Corporation : II Party Management
Ltd. Cauvery Project, Neravy
Karaikal.

APPEARANCE:

For the Workman : M/s. R. Sivaprakasam
& M. Ravi, Advocates

For the Management : Mr. P. Arulmudi,
Advocate

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-30012/166/2000/IR (M) Dated 30-03-2001.

On receipt of the order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No. 573/2001 and notices were sent to the parties to the dispute by registered post, with a direction to appear before this Tribunal on 15-5-2001 to file their respective Claim Statement and Counter Statement and to prosecute this case further. Accordingly, learned counsel on record on either side have filed their respective claim statement and counter statement and prosecuted this case further.

Upon pursuing the Claim Statement, Counter Statement, documentary evidence let in on either side, the other material papers on record, the written arguments filed by the learned counsel for the II Party/Management alone and this matter having stood over till this date for consideration, this Tribunal has passed on merits, the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the, Central Govt, for adjudication by this Tribunal is as follows :—

“Whether the dismissal of Sri R. Pandian term based Security Guard by the management of ONGC, Cauvery Project, Neravy, Karaikal is legal and justified? If not to what relief the workman is entitle?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri R. Pandian (hereinafter refers to as Petitioner) are briefly as follows :—

The petitioner was appointed as a term based security guard on daily wage basis in the security section by the II Party/Management Oil & Natural Gas Corporation Ltd. w.e.f. 5-6-88. The Petitioner was declared as a regular workman w.e.f. 14-1-90 pursuant to the order passed by the Industrial Tribunal, Chennai by its order in I.D. No. 61/91. The Petitioner was placed under suspension by the Respondent by an order dated 10-3-98 on the ground that the Petitioner was arrested by the Inspector of Police, Koothanallur Police Station in Crime No. 69/98 for the alleged offences under various Sections of IPC and Section 3(i) of Public Properties Damages Act and remanded to custody from 3-2-98 to 26-2-98. Subsequently, without conducting any enquiry and without verifying the facts the Respondent has dismissed the Petitioner from service vide order dated 21-6-2000. During the month of February 1998, he fell ill and he was suffering from peptic ulcer and he was taking treatment. During such time, there was communal clash in his village and by way of precautionary measure and by way of preventive measure the Petitioner while taking treatment was arrested by the police without any basis for the arrest. FIR was registered by the police against some persons for the alleged offences under various Sections of IPC and under Section 3(i) of PPD Act. In spite of the fact that the Petitioner's name was not included in the FIR the Petitioner was arrested by the police along with other persons only by way of preventive measure. Based on the said arrest the Respondent passed the suspension order dated 10-03-98 arbitrarily against the Petitioner. As he was not involved in any criminal case and particularly in the above said communal clash for which FIR was registered by the police. Inspector of Police Koothanallur Police Station issued a clearance certificate dated 1-4-99 stating that the Petitioner was arrested only by way of preventive measure and there were no adverse remarks against the Petitioner in police records of Koothanallur Police Station and there was no objection from police side to reinstate the Petitioner in service by the Respondent. In spite of the said clearance, the Petitioner was not reinstated in service. The Deputy General Manager (P & A) of the Respondent Corporation sent a letter dated 26-5-99 to Inspector of Police, Koothanallur requesting him to inform about the present status of the said criminal case and whether the said case against the Petitioner had been withdrawn. For this enquiry made by the Respondent, the Inspector of Police, Koothanallur sent a reply dated 25-6-99 stating that there were no adverse remarks against the Petitioner in police records of Koothanallur Police Station and there was no objection from police side to reinstate the Petitioner in service as security guard. It was further stated by the police that there was no arrest against the Petitioner prior to 1-2-98 and peace talks were held between the two

communities in the town and the matter was settled between the two groups amicably. Apart from that the Inspector of Police, Koothanallur issued a certificate dated 29-12-99 stating that after the investigation in crime No. 69/98 registered with the Koothanallur Police Station, it was found that the Petitioner was not involved in the said criminal case and the action against the Petitioner was dropped. In spite of the clearance certificate issued by Inspector of Police, Koothanallur who conducted the investigation, the Respondent did not choose to reinstate the Petitioner in service. On the contrary, the Respondent passed an order dated 27-6-2000 whereby the Petitioner was dismissed from service on the ground that the Petitioner failed to report his arrest and remand to the Respondent and the Petitioner was in the habit of absenting from duties unauthorisedly on many occasion. It was further stated that the Petitioner had written in the attestation form that his home address was at Karaikal, whereas Karaikal is only his temporary address and the Petitioner belongs to Thiruvarur Dist. Petitioner made a request before the Assistant Labour Commissioner (Central) Chennai for necessary conciliation between the Petitioner and Respondent. As the Petitioner was not willing for any conciliation based on untenable grounds, the Assistant Labour Commissioner (Central) sent a failure report to the Government of India, Ministry of Labour. Hence, the Ministry has sent the reference to this Tribunal for adjudication and for passing an award. The Petitioner was suspended for more than two years from service by the Respondent in the year 1998 without any basis. No show cause notice was issued to the Petitioner and no enquiry was conducted by the Respondent before passing the patently arbitrary dismissal order dated 27-6-2000 against the Petitioner. Even during the period of suspension, the Petitioner was not given any subsistence allowance in violation of the service rules and regulations. No opportunity was given by the Respondent to the Petitioner before passing the dismissal order. Even clearance certificates issued by the police in the concerned criminal case had not been considered by the Respondent before passing the dismissal order. When the Petitioner has not been implicated in the FIR and no charge sheet had been filed for more than three years, the Respondent has not right to dismiss the Petitioner from service on the basis of baseless and untenable grounds without even considering the categorical clearance certificates issued by the Inspector of Police, Koothanallur in favour of the Petitioner. The Petitioner was not in the habit of absenting from duty as alleged by the Respondent. Further a person can settle down at any place as his permanent address. It is not necessary that the said person has to given only his native place as his permanent address, when he has no own house in his native place. Further, the Petitioner did not make any declaration with regard to his native address to the Respondent at any point of time, while joining the service of the Respondent or subsequently. The dismissal order dated 27-6-2000 passed by the Respondent is

illegal and in blatant violation of the service rules and regulations and natural justice. The dismissal order has been passed by the Respondent illegally and the same is unsustainable. Hence, the Petitioner is entitled to be reinstated in service in accordance with the provisions of law. Hence it is prayed that the Hon'ble Tribunal may be pleased to pass an award declaring that the dismissal order dated 27-6-2000 passed by the Respondent is illegal, unlawful, arbitrary and unsustainable and consequently direct the Respondent to reinstate the Petitioner in service with immediate effect with all back wages, increment, promotion and all other attendant benefits.

3. The averments in the Counter Statement filed by the II Party/Management M/s. Oil and Natural Gas Corporation Ltd. (hereinafter refers to as Respondent) are briefly as follows:—

The Petitioner was employed as term basis security guard on daily wage basis and he was not appointed on 5-6-88 as claimed by him. The Petitioner's claim that he was regularly appointed is incorrect. The Petitioner was arrested by the police and was kept in custody from 3-2-98 to 26-2-98. The case does not relate to employment and it related to private dispute. Instead of stating the truth, the Petitioner had sent a telegram through his brother that he was suffering from peptic ulcer and was admitted to the hospital and requested for leave from 1-2-98 to 15-3-98. The above act of the Petitioner clearly showed that he misled the authorities by giving false statements. He wilfully suppressed the facts and misled the organisation which is unbecoming of a security guard. The Petitioner was arrested at Koothanallur and was subsequently released. The police clearance certificate dated 1-4-99 stated that after the incident only he is not having any adverse remarks against his name in the police records. When the Petitioner requested for reinstatement, the Respondent sought for verification of the Petitioner's character and antecedents. The SP ordered for the police enquiry by the ASP, Thiruvannur during which it was found out that the certificate issued by the Inspector of Police, Koothanallur was faulty. The SP vide letter dated 24-7-2000 informed that the Petitioner is found to be concerned as an accused in the above case. Since the charges were serious, the Respondent imposed the penalty on the Petitioner more particularly when the Petitioner being a security guard and deliberately suppressed material facts and misled the organisation. The claim of the Petitioner that he was arbitrarily denied employment inspite of producing clearance certificate is not correct. He was dismissed for his conduct. He was involved in criminal case. He was sent to jail and the said fact was deliberately suppressed by him. He also sent false information when he was directed to report for duty. The arrest and remand in police custody was not informed as per rules and hence he was found unfit for employment especially in security service. Moreover, the service record of the Petitioner was also not

satisfactory. His past conduct was taken note of and it was found that he had been a frequent absentee and had been issued with memoranda. The Petitioner was given ample opportunities to substantiate his position. But he misled the ONGC. As informed by SP, Thiruvannur, he found to be an accused in criminal case. Since the Petitioner was engaged on daily wage basis, he is not entitled for any allowance as per the existing rules of Corporation. The Petitioner's dismissal was based upon the categorical report obtained from the police about the criminal case and also in view of the conduct of the Petitioner in deliberately misleading the corporation. The Petitioner's reliance upon the earlier certificate issued by the Inspector of Police, Koothanallur will not be of any help as the subsequent verification by the SP, Thiruvannur revealed that he is still an accused in the case and had not been discharged or acquitted. Hence, the Petitioner's claim that he is entitled for reinstatement is devoid of merits. The Petitioner was a frequent absentee as evidenced by records. He has been issued with several memoranda on this account. Moreover in his attestation form, he had stated that his residence was in Kariakal, whereas it was only his temporary place of residence and his permanent residence was at Thiruvannur as was found out during the enquiry conducted by the police. Thus, he had suppressed material facts to gain employment and by virtue of his conduct, he forfeited the right to be in employment. Moreover, since he is in disciplined force, he is expected to state the truth and be loyal. But his above said conduct disproves his claim and hence the Respondent on the basis of the clear records passed the impugned order dated 27-6-2000, which is in the interests of the organisation. The Respondent has lost confidence in the conduct of the Petitioner and hence he could not be retained in service. The order of termination had been passed after taking into account the relevant circumstances and records. The order is just and lawful and hence, the industrial dispute may be dismissed as being devoid of merits. It is prayed that if this Hon'ble Tribunal holds that the termination is improper, the Respondent may be given an opportunity to sustain the order passed by them by letting in evidence their right to file any additional counter at a later stage. Hence, it is prayed that the Hon'ble Tribunal may be pleased to dismiss the industrial dispute.

4. When the matter was taken up for enquiry finally, no one has been examined as a witness on either side. Documents filed on either side were marked by consent of the counsel on either side as Ex. W1 to W16 and M1 to M3 respectively. Learned counsel for the II Party/ Management alone has filed his written argument.

5 The point for my consideration is —

"Whether the dismissal of Shri R. Pandian Term based security Guard by the management of ONGC, Cauvery project, Neravy, Karaikal is legal and justified? If not to what relief the workman is entitled?"

Point :—

This industrial dispute has been raised by the I Party/ Petitioner Sri R. Pandian challenging the action of the Respondent Oil & Natural Gas Corporation Ltd. in dismissing him from service as a term based security guard in the Cauvery Project, Neravy, Karaikkal, as illegal and unjustified. It is his contention that he was appointed as term based security guard on daily wage basis w.e.f. 5-6-1988 and that he was declared as a regular workman w.e.f. 14-1-90 pursuant to the order passed by Industrial Tribunal by its order in I. D. No. 61/91. The Respondent/ Management has taken objection to this contention of the Petitioner in the Claim Statement and has stated that the Petitioner's claim that he was regularly appointed, is incorrect. He has not chosen to file the alleged order of appointment appointing him as term based security guard w.e. f.5.-6.-88. It is admitted that the Petitioner was arrested by Inspector of Police, Koothanallur Police Station in respect of Crime No.69/98 and remanded to judicial custody from 3.2.98 to 26.2.98. Ex. W1 is the xerox copy of the copy of FIR registered under Crime No. 69/98 of Koothanallur Police Station. It is also the contention of the Petitioner in Claim Statement that though his name is not included in the FIR he was arrested by the Police along with other Persons by way of Preventive measure and based on the said arrest, the respondent has passed suspension order dated 10.03.98.Ex.W3 is the xerox copy of the order dated 10.3.98 passed by Deputy General Manager (P & A) of the Respondent/Management mentioning that the Petitioner was arrested by the police in respect of a case registered by Koothanallur Police Station and was remanded to custody from 3.2.98 till 26.2.98. It is also his contention that during the month of February, 1998 he fell ill and was suffering from peptic ulcer and was taken treatment in the village and during that time there was a communal clash in their village and by way of precautionary measure, he was arrested by police. Though he has not mentioned in the Claim Statement that he caused to send a telegram to Security Officer through his brother Somasundaram on 5-2-98, informing the security officer that he is suffering from peptic ulcer and admitted to hospital and praying leave from 1-2-98 to 15-3-98 he has filed the xerox copy of the telegram as an exhibit and the same has been marked as Ex.W2. In the Counter Statement of the Respondent/ Management, it has been specifically averred that instead of stating the truth the Petitioner has sent a telegram through his brother that he was suffering from peptic ulcer and was admitted to hospital and requested leave from 1-2-98 to 15-3-98 and that the above act of the Petitioner clearly shows that he misled the authorities by giving false statements. This has not been denied or refuted by the Petitioner by filing a reply statement. On the other hand, the admission made by the Petitioner himself in his Claim Statement that he was remanded to custody from 3-12-98 to 26-2-98 clearly shows that his action of informing the

Respondent/Management by sending a telegram through his brother on 5-2-98 stating that he was suffering from peptic ulcer and was admitted to hospital and requested leave from 1-2-98 to 15-3-98 on that ground is nothing but burking the true facts and misleading the Respondent/ Management and thereby he wilfully suppressed the facts.

6. It is the next contention of the Petitioner in the Claim Statement that by the Inspector of Police, Koothanallur Police Station issued clearance certificate dated 1-4-99 stating that the Petitioner was arrested by them only as a preventive measure and there was no adverse remarks against the Petitioner in the Police Station of Koothanallur Police Station. He has further stated in his Claim Statement that the Deputy General Manager of Respondent/Management sent a letter dated 26-5-99 to the Inspector of Police, Koothanallur requesting him to inform about the present status of the said criminal case and whether the said case against the Petitioner has been withdrawn and that the Inspector of Police, Koothanallur Police Station sent a reply dated 25-6-99 stating that there were no adverse remarks against the Petitioner. It is his further contention that apart from that Inspector of Police, Koothanallur Police Station issued a certificate dated 29-12-99 stating that after investigation in Crime No. 69/98 of Koothanallur Police Station it was found that the Petitioner had not involved in criminal case and the action against the Petitioner was dropped. Ex.W4 is the xerox copy of the clearance certificate dated 1-4-99 issued by Inspector of Police, Koothanallur on the basis of the issue of the clearance certificate under Ex.W4 the Petitioner has sent a written representation dated 6.4.99 to the Respondent/ Management requesting them to reinstate him in service stating that the criminal case against him was dropped by the police without further proceedings. The xerox copy of that representation is Ex.W5. Ex.W6 is the xerox copy of the letter dated 26-5-99 sent by Respondent/Management to Inspector of Police, Koothanallur in respect of clearance certificate dated 1-4-99. Through that letter, the Respondent/ Management requested the Police Officer to inform the management about the present status of the case and whether the case against the Petitioner has been withdrawn. Ex.W7 is the xerox copy of the letter dated 25-6-99 sent by the Inspector of Police, Koothanallur to the Respondent/ Management stating that there was no arrest against Sri R. Pandian prior to 1-2-98 and Sri R.Pandian was released on 26-2-98 and subsequent to that incident, on the basis of the piece talks between Hindus and Muslims of the town the matter was settled between the two groups. Ex.W8 is xerox copy of the another certificate issued by Inspector of Police, Koothanallur dated 29-12-99 stating that the Petitioner was alleged as one of the accused in the case registered as C.R. No. 69/98 of Koothanallur Police Station and that during the course of investigation, it was found that he is not accused in that case and action against Sri R. Pandian is now dropped. Ex.W9 is the xerox copy of the

letter dated 3-1-2000 sent by the Petitioner Sri R. Pandian to the Management stating that the police has deleted him from the case and action is dropped against him and a certificate given by Inspector of Police, Koothanallur to that effect has been enclosed with that letter. It is further requested in that letter to revoke the order of suspension and allow him to join duty. Subsequently, the Respondent/Management sought for verification of Petitioner's character and antecedents and the SP ordered for police enquiry by ASP, Tiruvarur and found that the certificate issued by Inspector of Police, Koothanallur was faulty and the Superintendent of Police by his letter dated 24-7-2000 informed that the Petitioner is found to be concerned as an accused in the above case. This has been clearly pleaded in the Counter Statement of the Respondent/Management. In support of the same, a letter dated 27-1-2000 sent by Respondent/Management to Superintendent of Police, Tiruvarur Distt. is available. The xerox copy of that letter has been filed by the Petitioner as Ex.W10. For this letter, the Add. Superintendent of Police, Tiruvarur, sent a reply to the Respondent/Management by a letter dated 24-3-2000 stating that the Deputy Manager, Security Section of the Respondent/Management can make it convenient to attend the police departmental preliminary enquiry at 10.00 hrs. on 28-3-2000 in connection with their letter dated 27-1-2000. The xerox copy of that letter also has been filed by the Petitioner as Ex.W11. On the side of the Respondent/Management, the Xerox copy filed under Ex.W10 also has been filed as xerox copy under Ex.M1. The Respondent/Management has also filed the xerox copy of the communicated dated 24-3-2000 filed by the Petitioner as Ex.W11, it is marked as management Ex.M2. It is alleged in the Counter Statement that the Superintendent of Police by his letter dated 24-7-2000 informed the Respondent/Management that the Petitioner is found to be concerned an accused in the said criminal case. The xerox copy of the letter has been filed by Respondent/Management as Ex.M3. In that letter it is stated by Superintendent of Police, Tiruvarur Distt. that in reply to the request of the management for verifying the character and antecedent of the Petitioner that the present Inspector of Police, Koothanallur Police Station conducted further investigation in the said criminal case under C.R.No.69/98 and had reported that Sri R.Pandian, the Petitioner is found to be concerned as an accused in that case. Though this has been stated in the Counter Statement of the Respondent/Management, it has not been denied by the Petitioner by way of reply statement. On the other hand Ex.M3 letter substantiate the averment made by the Respondent/Management in this regard. From this, it is seen as rightly contended by the Respondent in their Counter Statement that the Petitioner being a security guard had deliberately suppressed the materials facts and misled the organisation. Further it is seen from Ex.M3 the latter letter dated 24-7-2000 sent by Superintendent of Police, Tiruvarur Distt. to the Respondent/Management that earlier clearance

certificate issued by the previous Inspector of Police, Koothanallur Police Station under Ex.W8 stating that the Petitioner is not an accused in that case and the action against the Petitioner was dropped is a false clearance certificate issued by the then Inspector of Police, Koothanallur only to favour the Petitioner for the reasons best known to him only. Like that, the earlier certificate dated 1-4-99 under Ex.W4 as a clearance certificate stating that in the piece talks between Hindus and Muslims of the town, the matter was settled between the two groups is also not correct.

7. From the materials available in this case, it is seen that the Petitioner was involved in criminal case and was sent to jail and the said fact was deliberately suppressed by him and he has caused to send a telegram with false information that he was hospitalised due to his illness. It is not disputed that the Petitioner has failed to inform the Respondent/Management about his arrest and subsequent remand to custody. Hence, the Respondent/Management had found that the Petitioner is unfit for employment especially in security service and the dismissal of the Petitioner from service by the Respondent/Management was based on the categorical report obtained from police about the criminal case. On subsequent verification by the SP, Tiruvarur which discloses that the Petitioner still an accused in the criminal case and had not been discharged or acquitted. So, the Petitioner's reliance upon the earlier clearance certificate issued by the previous Inspector of Police, Koothanallur will not in any way helpful to the Petitioner.

8. It is also the contention of the Respondent/Management that the Petitioner in the attestation form had stated that his residence was in Karaikkal, whereas it was found out in the enquiry conducted by police that his permanent residence was at Tiruvarur and thus, the Petitioner has suppressed the material facts to gain employment. This has not been disputed or denied by the Petitioner himself. As rightly contended by the learned counsel for the Respondent/Management in his written arguments, since the Petitioner is in disciplined force as security guard he is expected to be truthful and loyal. The conduct of the Petitioner which is revealed from the facts and circumstances of the case by documentary evidence made the Respondent to loose confidence in the conduct of the Petitioner and to come to the conclusion that the Petitioner is not a fit person to be retained in service in the interest of the Respondent organisation. So, the Respondent/Management has passed the order dated 27-6-2000, the xerox copy of the same is Ex.W12 dismissing the Petitioner from service of the Respondent Organisation. Hence, it can be said that the order passed by the Respondent/Management by dismissing the Petitioner, term based security guard of ONGC, Cauvery Project, Neravy, Karaikkal is just and lawful. In Ex.W12 order itself, it has stated the reasons for dismissal from service. Ex. W13 is

the xerox copy of the subsequent representation dated 7-7-2000 given by the Petitioner to the Respondent/Management requesting for reinstatement in service, mentioning himself as a sincere employee. Ex. W14 is the xerox copy of the petition dated 13-7-2000 given by Petitioner to Assistant Labour Commissioner (Central) Chennai requesting for conciliation of the matter under Section 2A of Industrial Disputes Act, 1947. Ex. W15 is the xerox copy of the reply filed by the Respondent/Management before Assistant Labour Commissioner (Central), Chennai, for the petition filed by the Petitioner for conciliation. Ex. W16 is the xerox copy of the objections filed by Petitioner to the statement of Oil & Natural Gas Corporation Ltd. filed before the conciliating authority.

9. So from all these materials in this case, it is seen that because of the conduct of the Petitioner who was employed as term based security guard, the Respondent/Management had lost confidence on him and had found that the Petitioner had suppressed the material facts to gain employment and by virtue of his conduct, he forfeited his right to be in employment, since he is in disciplined force, he is expected to be loyal and truthful. Further there is no basis for the Petitioner's averment of victimisation and hence, this Tribunal cannot interfere with the decision of the Respondent/Management in terminating the Petitioner from service. Under such circumstances, it can be held that the dismissal of Sri R. Pandian, Term Based Security Guard by the management of Oil & Natural Gas Corporation Ltd. Cauvery Project Neravy, Karaikal is legal and justified and the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

10. In the result, an Award is passed holding that the concerned workman Sri R. Pandian is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined:—

On either side : None

Documents Exhibited:—

For the I Party/Workman:—

Ex. No.	Date	Description
W1	01-02-98	Xerox copy of the FIR Copy in Cr. No. 69/98
W2	05-02-98	Xerox copy of the telegram sent to II Party Management
W3	10-03-98	Xerox copy of the suspension order issued to Petitioner
W4	01-04-99	Xerox copy of the clearance certificate issued by Inspector of Police, Koothanallur
W5	06-04-99	Xerox copy of the representation submitted by Petitioner to Deputy General Manager of Respondent/Management

W6	26-05-99	Xerox copy of the letter from Respondent/Management to Inspector of Police, Koothanallur
W7	25-06-99	Xerox copy of the reply of Inspector of Police, Koothanallur to Respondent/Management
W8	29-12-99	Xerox copy of the certificate issued by Inspector of Police, Koothanallur to Petitioner
W9	03-01-2000	Xerox copy of the letter from Petitioner to Deputy General Manager of Respondent/Management
W10	27-01-2000	Xerox copy of the letter from Respondent/Management to Superintendent of Police, Tiruvarur.
W11	24-03-2000	Xerox copy of the reply of Superintendent of Police, Tiruvarur to Respondent/Management
W12	27-06-2000	Xerox copy of the order of dismissal passed by II Party/Management against the Petitioner
W13	07-07-2000	Xerox copy of the representation submitted by Petitioner to General Manager of Respondent/Management
W14	13-07-2000	Xerox copy of the letter from Petitioner to Assistant Labour Commissioner (Central) raising dispute for conciliation.
W15	30-08-2002	Xerox copy of the reply filed by II Party/Management before Assistant Labour Commissioner (Central)
W16	13-09-2002	Xerox copy of the statement of objection filed by Petitioner against the reply of the Respondent/Management.

For the II Party/Management:—

Ex.No.	Date	Description
M1	27-01-2002	Xerox copy of the letter from Respondent/Management to Superintendent of Police, Tiruvarur.
M2	24-03-2002	Xerox copy of the letter from Addl. Superintendent of Police, Tiruvarur to Dy. Manager of Respondent/Management
M3	24-07-2002	Xerox copy of the reply of Superintendent of Police, Tiruvarur to Respondent/Management.

नई दिल्ली, 6 फरवरी, 2003

का. आ. 784.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. इसको के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद नं. 1 के पंचाट (संदर्भ संख्या 29/89) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-1-2003 को प्राप्त हुआ था।

[सं. एल-20012/162/88-D.III(A)/D-IV(A)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S.O. 784.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/89) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad No. 1 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. IISCO and their workman, which was received by the Central Government on 31-1-2003.

[No. L-20012/162/88-D-III(A)/D-IV(A)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under Sec. 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 29 of 1989

PARTIES : Employers in relation to the management of
M/s. Indian Iron and Steel Company Ltd.

AND

Their Workmen.

PRESENT : Shri S. H. Kazmi,
Presiding Officer.

APPEARANCES :

For the Employers : None.

For the Workman : None.

State : Jharkhand. Industry : Coal.

Dated, the 3rd January, 2003

AWARD

By Order No. L-20012/162/88-D.III(A)/D-IV(A) dated 10-3-1989 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-sec. (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal ;

“Whether the dismissal of Shri Chandi Rabidas alias Bhuteli by the management of Jitpur Colliery of M/s. Indian Iron and Steel Company w.e.f. 29-8-87 i.e., just two days prior to his superannuation, is justified ? If not, to what relief the concerned workman is entitled ?”

2. This is a case of dismissal of the concerned workman from his service and as it is evident from the record the domestic enquiry held has already been found as fair and proper during the pendency of this reference. From the record further it appears that on 17-8-1995 a

petition for substitution was filed stating therein that the concerned workman is dead and so in his place his son, J. B. Prasad be substituted and he be allowed to prosecute this reference in place of his deceased father. The said petition was moved on 13-10-95 and in presence of representatives of both the sides the same was allowed and 29-11-95 was fixed as the next date for argument on merit. Thereafter, it appears that despite granting several adjournments for the said purpose none appeared on behalf of the workman to make arguments and so finally on 17-7-2000 the case was taken up for argument, management's representative was heard and then the award was reserved. However, the award could not be passed due to one reason or the other by my predecessor and so it was again fixed for hearing oral submission when a new Presiding Officer assumed the charge. Notice was sent to the parties and on 19-7-2002 Sri S. P. Rakshit, Advocate, who has been appearing in this case on behalf of the concerned workman as also on behalf of his son after the death of the concerned workman, submitted that he has lost contact with his client since long time and has not received any instruction from his side. He further submitted that he is not in a position to say whether his client is still interested to proceed with the matter or not and so he would try to ascertain those facts and would make necessary submission on the next date. Today was the next date fixed but again none is present to make submission either on merit or for making any submission whatsoever. From the side of the management also none is present to make argument. Considering the past developments precisely, as noticed above, it is needless to keep this old reference of the year 1989 pending for argument any further. As the domestic enquiry has already been held to be fair and proper and as the original documents pertaining to the enquiry proceedings are already thereon record, now I proceed to give my findings on the basis of those materials with regard to legality and propriety of the order of dismissal passed against the concerned workman who is now dead.

3. It appears that in the year 1987 while the concerned workman was working as a Loader in Jitpur Colliery of M/s. IISCO with the name of Chandi Rabidas, on 16-7-87 a registered letter was received from one Chandi Chamar S/o Gouri, Village-Barwa Mansang, P.O. Pipra Madangopal, P.S. Hata, Dist. Deoria (U.P.) informing that the person who is presently working at Jitpur colliery in the name of Chandi is an impostor and his actual name is Bhutali S/o Gurjan. On receipt of this letter the management issued a chargesheet dated 29-7-87 against the concerned workman under clause 27(2) and 27(19) of Certified Standing orders of the Company i.e. for theft, fraud or dishonesty in connection with company's business or property and for breach of provisions of the Mines Act, Rules, Bye-laws or Standing Orders. The concerned workman replied to the said chargesheet, but

finding the same to be not satisfactory the enquiry was ordered and one Mohit Mukherjee, Manager (Personnel) Chasnala was appointed as Enquiry Officer. The concerned workman fully participated in the enquiry and took assistance of a co-worker also to defend his case. In course of the enquiry as it is evident from enquiry proceeding (Ext.M-5) and enquiry report (Ext.M-6) four witnesses were examined on behalf of the management and few documents were also exhibited. The defence side declined to cross-examine those witnesses. The management's witness (PW-1), Superintendent, Jitpur colliery supported the fact as regards the receipt of the aforesaid registered letter from Chandi Rabidas and stated that on 22-7-87 the said Chandi who had written the letter confirmed that he had written the same. He has stated that he advised the concerned officer to initiate departmental proceeding against Bhutali who was working in the name of Chandi Rabidas. Other witnesses of the management also made the statements in favour of the management and also proved few documents, such as, affidavit dated 14-2-56 sworn by the concerned workman (Ext.3) and nomination Form relating to provident fund (Ext. 5).

From the side of the concerned workman also four witnesses were examined including the workman himself and few documents were also exhibited which were mainly the copy of the original aforesaid two affidavits of the year 1956 and 1987. The concerned workman in his evidence controverted the allegation made in the petition of complaint and further stated that in his native place he is known as Bhutali and also as Chnadi and in the colliery record his name has been recorded as Chandi. During his cross-examination several questions were put to him on behalf of the management mainly in respect of the two affidavits sworn by him firstly in the year 1956 and then in the year 1987. Significantly, in the first affidavit of 1956 he appears to have stated that he has got two names, namely, Bhutali and Chandi as his nick-name, whereas in the affidavit sworn in the year 1987 he stated that his name is Chandi and his nick-name is Bhutali. He mentioned his father's name as Gurjan alias Gouri but later in the second affidavit he mentioned his father's name as Gouri alias Gurjan. He could not give the satisfactory reply or explanation as to why he had sworn an affidavit in the year 1956 in the name of Bhutali alias Chandi when he was known as Chandi in the colliery as well as in his village. He also failed to furnish sufficient reply as to why inconsistent statements were made in those two affidavits upon which he was making much reliance. During the enquiry he made an attempt to produce the so-called person who had written the letter but in course of his evidence denied to have sent any letter. Interestingly, in his evidence the said witness revealed that his father's name is also Gouri and his wife's name is Kaili Devi, the same in the case of the concerned workman. His father's

name is also Gouri and his wife's name is also Kaili. The Enquiry Officer made scrutiny of all those materials produced and also took note of several suspicious and unexplained circumstance emerging out of the materials gathered and then concluded by observing that in view of the evidence adduced by the parties as well as the documents produced it is clear that Bhutali S/o Gurjan is working at Jitpur colliery with the name of Chandi Rabidas and as such, the charges levelled against him are established. Upon the perusal of the materials on record I do not find any reason to interfere with the aforesaid finding arrived at by the Enquiry Officer on the basis of which the order of dismissal was passed. Further, in my view, considering the gravity of the charges levelled against the concerned workman the punishment as awarded to him can also be not termed as excessive or disproportionate.

4. The award is, thus, made as hereunder :

The dismissal of Chandi Rabidas alias Bhutali by the management of Jitpur colliery of M/s. Indian Iron & Steel Company w.e.f. 29-8-87 is justified and he or his heir is not entitled to any relief whatsoever.

In the circumstances of this case, however, there would be no order as to cost.

S. H. KAZMI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2003

का. आ. 785.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोडरमा माईका यूनिट ऑफ बी.एस.एम.डी.सी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद नं. 1 के पंचाट (संदर्भ संख्या 49/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-1-2003 को प्राप्त हुआ था।

[सं. एल-28012/2/96-आई. आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S.O. 785.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 49/96) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad No. 1 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Koderma Mica Unit of B.S.M.D.C. Ltd., and their workman, which was received by the Central Government on 31-1-2003.

[No. L-28012/2/96-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO. 1, DHANBAD**

In the matter of a reference under sec. 10(1)(d) of the
Industrial Disputes Act, 1947.

Reference No. 49 of 1996.

Parties : Employers in relation to the management of
Koderma Mica Unit of B.S.M.D.C. Ltd.

AND

Their Workmen.

Present : Shri S. H. Kazmi, Presiding Officer.

For the Employers : Shri H. Nath, Adv.

For the Workman : None.

State : Jharkhand. Industry : Mica

Dated, the 10th January, 2003

AWARD

By Order No. L-28012/2/96-IR/Misc. dated 12-8-96 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of Koderma Mica Unit of B.S.M.D.C. Ltd, P.O. & Dist-Koderma in not getting the age of Shri Sieman Yadav assessed by the Medical Board is justified? If not, to what relief the workman is entitled?”

2. None appears on behalf of the parties despite even the registered notice being sent on the last date, and as it is evident this case is still pending right from inception for appearance and for filing of written statement by the workman concerned. It is further apparent from the records that several adjournments were granted during the long pendency of this case to enable the workman to appear and file written statement, but position always remained the same and still this case is pending for the said purpose.

It is thus evident that the concerned workman or the union does not want to pursue this case any further otherwise certainly necessary steps would have been taken during the long pendency of this case. As the person aggrieved himself is no more interested in pursuing the present matter, there is no dispute left for being adjudicated and so it would be needless to keep this case pending for any longer.

Thus, in view of the observations made as above, this reference stands finally disposed of.

S. H. KAZMI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2003

का. आ. 786.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिनरल एक्सप्लोरेशन कार्पो. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 104/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-1-2003 को प्राप्त हुआ था।

[सं. एल-29011/26/92-आईआर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S.O. 786.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 104/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mineral Exploration Corpn. Ltd. and their workman, which was received by the Central Government on 31-1-2003.

[No. L-29011/26/92-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, NAGPUR**

PRESENT SHRI B. G. SAXENA, PRESIDING OFFICER

Reference No. CGIT : 104/2002

M.E.C.L

AND

M.E.C. EMPLOYEES UNION

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-29011/26/92-IR(Misc) dt. 12-07-93 on following schedule.

SCHEDULE

“Whether the action of the management in not granting extension upto the age of 60 years to the workmen of Mineral Exploration Corporation Ltd. as agreed in Settlement dated 11-03-1983 is proper and justified? If not, to what relief they are entitled to?”

This reference was received from Ministry of Labour, New Delhi in CGIT, Court at Jabalpur in the month of July, 1993. The file remained pending at CGIT, Jabalpur. This file has been received from CGIT, Jabalpur in September, 2002.

Notices were issued to both the parties fixing 03-10-02. The workman did not turn up on this date and no evidence was produced by him. The counsel for management appeared. The case was again adjourned to 19-11-02. Both the parties absented on this date. The case was again adjourned to 07-01-03. None of the parties turned up today.

From the perusal of this file it appears that the workmen is not interested in contesting the case and so he is avoiding appearance.

An application dt. 14-07-99 moved by the counsel for the management is on the record. This application shows that the management has already raised the age of superannuation upto 60 years w.e.f. 27-07-98 and the reference has therefore become infructuous. In view of the above application of the management, the reference is disposed of for want of prosecution.

ORDER

The application dt. 14-07-99 moved by the counsel for the management shows that the age of the retirement has been raised to 60 years and the reference has therefore become infructuous. In view of the above application, the reference is disposed of for want of prosecution as the workman did not prefer to contest the case.

B. G. SAXENA, Presiding Officer.

नई दिल्ली, 6 फरवरी, 2003

का. आ. 787.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हट्टी गोल्ड माइन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचाट (संदर्भ संख्या 105/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2003 को प्राप्त हुआ था।

[सं. एल-43012/5/99 आईआर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S.O. 787.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 105/99) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hatti Gold Mines and their workman, which was received by the Central Government on 5-2-2003.

[No. L-43012/5/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT

“SHRAM SADAN”

III MAIN, III CROSS, II PHASE, TUMKUR ROAD
YESHWANTHPUR,

BANGALORE

Dated : 28th January, 2003

PRESENT :

Hon'ble Shri V. N. Kulkarni, B. Com, L. L. B.

Presiding Officer

CGIT-CUM-LABOUR COURT,

BANGALORE

C.R. No. 105/1999

IPARTY

Shri N. Madhusudan,
Dr. A.G. Veeranna's House,
Church Extension,
Chitradurga- 577 501

II PARTY

The Executive Director,
Hutti Gold Mines Co. Ltd.,
Chitradurga Gold Unit,
P.B. No. 4,
Chitradurga- 577 501

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-43012/5/99/1R (M) dated 15th September, 1999 for adjudication on the following schedule:

SCHEDULE

“Whether the action of the management of Chitradurga Gold Unit in not regularizing the mining casuals and clerks of their unit is justified? If not to what relief the workmen concerned are entitled?”

2. The first party union workmen are working with the management as Casual Labourers. They are not regularised by the management and therefore, this dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The union on behalf of the 57 Workmen has filed a very lengthy Claim Statement.

5. For the sake of convenience few facts can be narrated as under :

6. In the Claim Statement history of the Hutti Gold Mines Company Ltd., is given in detail. Chitradurga Copper Company and Chitradurga Copper Consortium were started in the year 1974 to mine copper ore and process it and sell the copper concentrate to Hindustan Copper Limited. The mining of copper ore and processing the same was stopped with effect from 1994. It is alleged that the Chitradurga Unit is started mining gold and processing the same. These workmen are working at Chitradurga and now they are engaged in mining gold. It is said that the management attempted to retrench these workmen and therefore, the union has raised this dispute. It is said that the workmen approached the High Court of Karnataka and the attempt of the management is stopped. It is said that the management has written to the Competent Authority i.e. Ministry of Labour, Govt. of India for closure of the Chitradurga Unit and also for retrenchment of these workmen.

7. It is said that the Govt. of India, Ministry of Labour has turned down the retrenchment proposal of the management.

8. It is the further case of the union that the management attempted to circumvent the principles of social justice and leave the workmen at lurch. The workmen are doing permanent nature of work but they are paying minimum wages and that is why the management is not fair. The Chitradurga Unit is producing 15 Kgs. of Gold as stated in para 5 of the Claim Statement. Workmen for these reasons and for some other reasons has prayed to allow the reference.

9. As against this the management has also filed a very lengthy Counter.

10. The case of the management in brief is as follows:—

11. It is repeatedly said that the Chitradurga Copper Unit from its inception has been making losses on account of poor quality of ores, low prices of copper compare to the surplus labourers, high cost of labour and over head expenses. It is said that as per the direction of the State Government, it was amalgamated with Hutti Gold Mines, Raichur with a view to rehabilitate and revives the sick unit. Even after this there is loss. History of Kalyadi, and Ingaldal unit is also given.

12. It is the further case of the management that on the basis of geological reports, preparations and prospecting for Gold Mining Operations was initiated in 1995 and the Gold mining started in the year 1996. However, as the gold ore was of low grade, yield of Gold also was meager and also due to the excess of manpower, the unit

continued to incur losses inspite of the best efforts by the management to rehabilitate the unit. The allegations of the union that the unit was mismanaged are not correct. Shri Madhusudan himself was one of the Officers in the Managerial Team and he is aware of the fact. .

13. It is also said that there was surplus labour and staff and scheme of VRS was introduced and details are given. Repeatedly it is said that Chitradurga unit was running in loss and the management has requested for closure and retrenchment of these workmen. The details of settlement are also given. It is said that the management has not given any assurance for regularization of casual workers and the workmen were aware of this fact. Application for approval of retrenchment of immediate casuals was also given. Mining casuals did not accept the VRS. Regularization of casual workman is subject to availability of resources to bear additional financial burden on the sick unit and run the same in a most efficient manner and therefore the demand is not correct. The management is trying to close down the unit. The Mining Casuals did approach the High Court for the stay of the implementation of the retrenchment of casual workmen though they got ex-parte order of stay. The same was vacated subsequently. However, the High Court disposed of the writ petition No. 13653-54 of 2000 on the basis of the assurance of second party that it will not retrench the casuals until the disposal of its application pending before the appropriate Authority under Sec. 25 N of the ID Act. The allegation that the workmen whose names are given in Annexure D had resigned in good faith by foregoing their residual services is baseless and false. The management would have been justified in terminating/retrenching the services in accordance with provisions of ID Act vide Section 2(oo) ©, since the provisions of retrenchment will not apply if their services are terminated on the grounds of ill health. Repeatedly it is said that the management is trying to reduce the workmen and staff. Details are given in respect of conciliation proceedings. The management is not in the habit of extracting cheap labour as alleged by the union. The management has also said casual labourers can be removed by giving compensation etc.

14. It is repeatedly said that the unit is sick unit. Management for these reasons and for some other reasons has prayed to reject the reference.

15. It is seen from the records that the management filed application for permission under 33 © of the Industrial Dispute Act, 1947. The learned counsel appearing for the parties have not pressed for it though it is filed in this reference.

16. It is seen from the records that the management has examined Mr. A.J. Raj Kumar, General Manager HRD &

Administration of Hutti Gold Mines and filed affidavit. He is cross examined by the workmen. The management has also filed affidavit evidence of A.S. Kulageri, General Manager of Chitradurga Gold Unit. He is also cross examined.

17. Against this Shri T. Manjunath examined as WW 1 for the workmen.

18. Union has filed affidavit of all the 57 workmen along with the Claim Statement. Thereafter for the sake of convenience Union examined T. Manjunath and authorization letter is also filed authorizing Shri T. Manju Nath to give evidence on behalf of the other workmen and accordingly he gave detailed evidence for himself and other 56 workmen involved in this dispute.

19. It is in evidence that Chitradurga unit is now engaged in mining gold. It is in the cross examination of Shri Raj Kumar that about 3 to 5 Kg. of gold is produced in Chitradurga unit per month. It is admitted by Shri Raj Kumar that these workmen are working continuously and they are paid minimum wages. They are also paid some other benefits. Shri A.S. Kulageri has also said that the unit is running in loss and they want to close the unit. Shri A.S. Kulageri admits in his cross examination that in the year 1992 there was a scheme that Senior workmen can resign job and their children will be given job and 35 workmen resigned and not 57 as suggested. Again he says that they resigned on medical grounds and not under the scheme. One thing is clear that the management admitted to introduce the above scheme and accordingly workmen resigned with an assurance that their children will be given job and these workmen in this dispute are the same persons. In view of this admission of Shri Kulageri the argument advanced by the learned counsel appearing for the management that no such scheme was introduced and there was no assurance from the management has no merits. Some truth has come from the evidence of Kulageri and this is sufficient to say here that the management is not fair towards the workmen. It may be a fact that the unit was running in loss. It may be a fact that the management intends to close Chitradurga Unit but that cannot be a ground to refuse job to the casual workers who have been doing permanent nature of work and now they are engaged in gold mining activities and they are continuously working with the management and not regularised them. They should have been regularised.

20. Mr. Kulageri says in his cross examination that it is not now possible to remember and tell that the management assured all the casual labourers that they will

be regularised in one year. What more material is required to say that the management is not justified in its action. These workmen have been working since 10, 11 and 12 years. Therefore, these workmen are entitled for regularization.

21. It is in the cross examination of Mr. Kulageri that it is true that since 1993 all these casual workers are working regularly and they are doing some job of regular workers also. In other words there is admission by this witness that these workmen are working since a long time and they are doing some permanent nature of work. With this admission it can be said here that the management is not fair in saying that the unit will be closed and these workmen will be retrenched. All these workmen are doing some permanent nature of work as admitted by Kulageri and the Chitradurga Unit is engaged in mining gold, the management is not justified at all in refusing regularization of these workmen.

22. At the cost of repetition I may say here that the allegation that the unit is running in loss and the management intends to close the unit will not be a ground to refuse regularization.

23. Both sides have filed decisions and the management has filed a lengthy written argument. I have read the same carefully. Written Argument is nothing but repetition of case put forth by the management in their counter and the learned counsel appearing for the management has argued all that before me.

24. Number of decisions are cited by the management. I have read all the decisions relied by the management. Facts of the citation reported in 1994(1) LLN 851 SC are quite different from the facts of the case on hand. The management cannot take the benefits of principles held in the above decision.

25. Again the facts of citation reported in 1997(1) LLN 861 are quite different from the facts of the case on hand. Citation reported in 1997(2) LLJ Kar 458, the facts of the case are quite different. It is held that there is no record to the effect that the workman worked for 240 days and seeking permanent absorption as a loader in the respondent organization. Facts are quite different from the facts of the case on hand. Again facts of the case of 2002(1) LLN 370. Here the appointments were made on daily basis and as they were not made in accordance with rules, the employees cannot have right to claim regularization.

26. The workmen are working since a long time and they are doing permanent nature of work. At present the unit is engaged in mining gold. Again the facts of the case reported in 2002(1) LLN 370 are quite different. Decision reported in 2002 SCC(L&S)203 again the facts are quite different and the management cannot take the benefit of principles held in the above decisions of the Hon'ble Supreme Court. Again the facts of the case reported in 1999 SCC(L&S)670 are quite different. Facts of Allahabad case are also quite different. The facts of the Rajasthan case are also quite different from the facts of the case on hand. In the decision reported in 1967(1) LLJ SC 423 the Hon'ble Supreme Court has held that the Tribunal cannot widen the scope of the enquiry beyond the terms of reference and parties cannot be allowed to challenge the very basis of the issue. Here that question does not arise at all. The reference is whether the Chitradurga Gold Unit is justified in not regularizing the mining casuals and clerks of their Unit and that is being decided in this dispute and nothing else.

27. The decision reported in 1979 Lab IC 827 Sc is also relied by the management. I may say here that this tribunal is deciding only the dispute regarding regularisation of these casual workers engaged in gold mining and that is disputed referred by the Competent Authority.

28. Against all this we have the evidence of Shri Manjunath who has given detailed evidence and various documents are marked in his evidence. It is clear that he has filed authorization letter and his evidence is on behalf of himself and for others. He is cross examined at length but nothing is made out from his cross examination for justifying the action of the management in not regularizing the workmen.

29. Of course he admitted that Chitradurga unit is running in loss and there is surplus staff. Fact remains that these workmen are doing gold mining work at Chitradurga Unit as admitted by Shri Kulageri and they are doing some permanent nature of work and the management is not justified to refuse regularization on the ground that the unit will be closed.

30. I have already said that application for closure and retrenchment is not entertained by the Competent Authority, Ministry of Labour, Govt. of India.

31. The learned counsel appearing for the workmen has given list of some decisions. He has filed a decision reported in 2000 LAB IC 3327. The Hon'ble Supreme Court of India has held in the above decision that Casual worker working in different departments of Govt. Company for

almost 10 years continuously and discharging duties similar to those of regular employees of the company, company directed to frame scheme for absorption of casual labour as regular employees.

32. It is in the cross examination of Mr. Kulageri that these workmen are working since 1993 and more than that and he has also admitted that these workmen are doing some permanent nature of work.

33. Keeping in mind the principles held in the above decision of the Hon'ble Supreme Court of India, I am of the opinion that the management has to regularize these workmen by necessary arrangements because they are doing some permanent nature of work and they are doing the work of mining gold at Chitradurga.

34. In the instant case both parties have filed documents and they are marked with consent. One settlement of Chitradurga unit is filed and according to clause 18, the union requested the management to confirm the mining casuals in regular service. After prolonged discussions the management has agreed to defer the matter. The management attempted to retrench these workmen but the Competent Authority turned down the request.

35. I have already said that the management is not fair in their attempt. When these workmen are working since 7 to 11 years and doing some permanent nature of work in the mining of gold, the management is not justified in refusing regularization of all these casual workers. The management has repeatedly contented that the unit is sick and they are closing it and there is no work at all. There is no merit in this because there is work as per the evidence of management witnesses and workmen and these workmen are doing some permanent nature of job in gold mining and processing at Chitradurga.

36. I have given my best consideration to the material before me and the arguments advanced by the management and I have considered the decisions carefully relied by the management. I am of the opinion that the management is not fair in refusing regularization to these workmen. In the result I proceed to pass the following Order.

ORDER

The reference is allowed and the management is directed to regularize these 57 workmen. No other benefits are given.

(Dictated to PA transcribed by her corrected and signed by me on 28th January 2003)

V.N. KULKARNI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2003

का. आ. 788.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल वेअरहाउसिंग कार्पो. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ के पंचाट (संदर्भ संख्या 82/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2003 को प्राप्त हुआ था।

[सं. एल-42012/5/95-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S.O. 788.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 82/95) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Warehousing Corpn. and their workman, which was received by the Central Government on 5-2-2003.

[No. L-42012/5/95-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, CHANDIGARH

PRESIDING OFFICER SHRI S. M. GOEL

Case No. ID 82/95

Sh. Tarsem Lal,
Basti Govindgarh, Moga
Distt. Faridkot

.....Applicant.

V/s.

Regional Manager,
Central Warehousing Corporation
S.C.O. 84-85, Sector 17, Chandigarh.

.....Respondent.

REPRESENTATIVES

For the Workman : Shri R. L. Chopra
For the Management : Shri Pardeep Sharma

AWARD

(Passed on 16-1-2003)

The Central Govt. Ministry of Labour vide Notification No. L-42012/5/95-I.R.(D) dated 29th September,

1995 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Central Warehousing Corporation in removing Shri Tarsem Lal from service is legal and justified? If not, to what relief the concerned workman is entitled and from which date?”

2. In the claim statement it has been pleaded by the applicant that he was working with the management as WA-I at Mullapur. He was issued a charge sheet on 29-10-1987 by the Senior Assistant Manager alongwith other persons. The name of the applicant was also added to use the same against the other charge-sheeted persons and other persons who have been issued charge-sheet have been used as witness/witnesses against the workman during the enquiry by the management which is against all canons of principle of natural justice. It is further pleaded that common enquiry has been conducted which is against the principle of natural justice. It is also pleaded that the workman was denied the assistance of the legally trained persons by the enquiry officer. It is further averred that disciplinary authority in the case of the workman was the General Manager but the enquiry has been ordered by the Joint Manager (V), thus the entire process of the enquiry is bad. It is further pleaded that on the date of alleged incident on 11-8-1996, the wife of the applicant gave birth of a child in the hospital and the applicant was on leave on that particular day and the applicant was falsely implicated in the case of theft. It is also stated that no FIR was lodged with the police with regard to the alleged incident and on the Physical verification the stock was found in order. It is also pleaded that no loss was caused to the management and the punishment was awarded without the powers and against the principle of natural justice. It is thus, prayed, that enquiry be vitiated and the workman be reinstated in service with full backwages and all other service benefits.

3. In the written statement the management has pleaded that the services of the workman were dispensed with after holding regular departmental enquiry and during the enquiry the workman was found guilty. It is pleaded that the charge-sheet was signed by Sr. Asstt. Manager (Vig.) for and on behalf of the General Manager and common enquiry was conducted which is under rules. It is further stated in the written statement that all the four officials were found jointly involved in the mis-appropriation stocks lying at CW, Mullapur, Dist. Ludhiana and inquiry was held legally, properly and in lawful manner and the management has not violated any principle of law by holding common inquiry against all charge-sheeted employees. The workman was given full opportunity to cross-examine the witnesses of the management and the workman did not produce any defence witness and the inquiry officer has acted as per record. It is further pleaded that the workman misappropriated the stock of the Corporation in the

connivance of Inderjit Singh and Others who misappropriated 141 bags of wheat in the night of 10/11-8-96 from Godown No. 31 but brought back the stock Warehouse on 12/13-8-96. On weightment of these bags average weight per bag was found about 87 Kg. against 95 Kg. Thus, workman caused a loss of 10.21 Kg. to the Corporation. It is also pleaded that a shortage of 20 Bags of IFFCO Urea was also detected from Godown No. 30. It is further pleaded that inquiry conducted and penalty awarded is not without power and thus the inquiry was conducted in a legal manner and the workman is not entitled to any relief in the present reference.

4. The management has placed on file the entire inquiry proceedings and I have heard the Ld. Counsels for the parties at length and also perused the entire inquiry proceedings.

5. The Ld. Counsel for the workman has pointed out that on the alleged date of incident i.e. 10/11-8-96 the wife of the petitioner gave birth to a child and in this connection the workman was on leave and the applicant had produced the said medical certificate before the inquiry officer which was not considered by the inquiry officer and, therefore, when the applicant/petitioner was not on duty on that date and he has been falsely implicated in the theft case alongwith others. It is further argued on behalf of the workman that Joint Inquiry has been ordered against all the four employees including the applicant and the applicant was the witness of the Management in the inquiry proceedings against the delinquent employees. Thus his own statement has been used by the inquiry officer to prove him guilty of the charges. It is further argued that the applicant was cross-examined by the representative of the workman Tarsem Lal when he was appearing as witness of the management. His statement was used against him which is against the settled principle of law. Moreover, it is further argued that no loss has been caused to the management. It is argued by the Learned counsel for the workman that the inquiry officer has committed the serious lapse by relying on the statement of other delinquent employees against the workman.

6. I have gone through the departmental enquiry proceedings date 24-9-1988 which was conducted by A.V. Jawahar, Deputy Manager (Enquiry) as enquiry officer. He held among other delinquent employees that Tarsem Lal was found guilty of the charges levelled against him. So far as the charges against Tarsem Lal is concerned it was alleged against him that while posted as warehousing Assistant Grade-I at CW Mullanpur during the year 1986 and while working as godown incharge of Godown Nos. 30 and 31, the investigation revealed that on 10-8-1986 at about 11 P.M. Tarsem Lal opened the warehouse manager's room and removed the keys of Godown No. 31 from the almirah at about 24 hours in the night, one trolley entered in the godown. The gate was opened by Tarsem Lal from the

keys which were removed from the almirah, he removed 141 bags of wheat and got loaded in the trolley from Godown No. 31 by the labourer accompanied the trolley and thus left the warehouse premises at about 2 A.M. on 11-8-1986. When on 11-8-1986 the physical verification was conducted 141 bags of wheat were found to be short in stack No. 2 of Godown No. 31. It is also alleged as against Tarsem Lal that the shortage of 141 bags of wheat was made good by him around midnight of 12/13-8-1986. It was also imputed as against the workman that on 5-9-1986 the investigating officer got weighted the bags and weight was found to be 87.76 Kg. per bag as against net weight of 95 Kg. per bag. It was also imputed against him that while holding charge of Godown No. 31, it revealed that 20 bags of Urea were found short.

7. Now in the light of the aforesaid imputations it has to be seen as to whether departmental enquiry sufficiently proves the charges as against the workman. No independent witness has been examined on behalf of the department to prove that Tarsem Lal workman had taken out 141 bags of wheat on the fateful night and whether there was any shortage of IFFCO urea in the stock at all. In my opinion the enquiry has been conducted in a most reckless and negligent manner. The enquiry officer or the disciplinary authority should have conducted the enquiry against each of the delinquent persons independently. The departmental enquiry was made jointly against all the delinquent officials while their interests were clashing with each other. Even Tarsem Lal was made witness as PW9 by the department against himself which is against all canon of law and equity. One cannot be a witness against one self. There is a provision of law of approver. But for making approver there is also a law and so many safeguards have been provided under the law. To state that Tarsem Lal workman had made any statement before the police, it has not been proved, and secondly, any statement before the police or the least before the village chowkidar is not admissible in the law. There is no independent evidence against the workman that he came to the godown on the fateful night and removed the bags. There is no evidence that the stock was made good by bringing back the wheat bags and Tarsem Lal was accompanying the trolley. The witnesses who has been examined against the workman, are only those persons who are themselves facing the departmental enquiry in this very scam. They cannot be stated to be independent witnesses. While they stated against the workman they absolved themselves against their liabilities in this scam and, therefore, their evidence cannot be accepted.

8. So far as the misappropriation of 20 bags of urea is concerned, there is no evidence as to when the workman Tarsem Lal had removed those bags and had brought them back. It has come on the record during the departmental proceedings that when checking of the stock was made, the stock of the urea was found correct. It is not on record

as to who made good the stock of the urea. The shortage of the urea which was detected during the preliminary investigation might be on account of faulty checking.

9. Moreover the enquiry officer has failed to appreciate the fact that on the fateful night the wife of Tarsem Lal had delivered a baby. In such situation and circumstances father of the newly born baby hardly gets time to commit such activities. The workman had filed the medical certificate before the authorities to this effect which has also not been disproved by the management.

10. In the last I may also observe that imputations against the workman Tarsem Lal was of a cognizable offence. It is an admitted fact that Regional Manager had reported the matter to the police. The police came to motion and even arrested some person in this case. What happen in that investigation by the police, the enquiry officer did not like to probe into and nor in this Tribunal till date on behalf of the department any document has been submitted by the learned counsel of the management. This Tribunal has thus been kept in dark about all this.

11. I thus, hold that the departmental enquiry conducted by the management against the workman is farce and the same is vitiated as imputation against the workman were not proved. The department has not sought to prove the charges by any evidence in this Tribunal. Therefore, it is held that the management had not acted legally or justifiably in removing the workman from the service of the management.

12. Bye and bye I may also add that in the reference made by the Ministry of Labour to this Tribunal, the name of the workman has been mentioned as 'Rarsem Lal. In my opinion it is mistakenly mentioned and is a clerical mistake as the copy of the reference has been addressed to at Serial No. 3 to Tarsem Lal and this fact has also not been agitated by the parties before this Tribunal.

13. Thus in view of the observations made in the earlier paras, the enquiry is vitiated and the action of the management in removing the workman from service on the basis of the said enquiry is illegal and unjustified. The workman is ordered to be reinstated in service with full backwages and continuity and with all attendant benefits of service. The management is directed to reinstate the workman within one month from the date of publication of this Award and to pay all the monetary benefits to him within one month. The reference is returned accordingly. Central Govt. be informed.

Chandigarh.

S. M. GOEL, Presiding Officer.

नई दिल्ली, 6 फरवरी, 2003

का. आ. 789.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भवन्तपुर लाइम स्टोन माइन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के

बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद न. 1 के पंचाट (संदर्भ संख्या 42/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-1-03 को प्राप्त हुआ था।

[सं. एल-29012/10/96-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S.O. 789.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 42/96) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad No. 1 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bhawanathpur Lime Stone Mine and their workman, which was received by the Central Government on 31-01-03.

[No. L-29012/10/96-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under sec. 10(1)(d) of the
Industrial Disputes Act, 1947.

Reference No. 42 of 1996.

Parties: Employers in relation to the management of
Bhawanathpur Lime Stone Mine of Bokaro Steel
Plant.

AND

Their Workmen

Present :

Shri S. H. Kazmi, Presiding Officer.

Appearances :

For the Employers : None.

For the Workmen : Shri D.K. Verma, Advocate.

State : Jharkhand. Industry : Stone.

Dated, the 8th January, 2003.

AWARD

By Order No. L-29012/10/96-IR (Misc.) dated 14-8-1996 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Raw Material Division of SAIL, Bhawanathpur in denying

the promotion and consequential benefits to Sh. T. Prasad, *vis-a-vis* his junior in Bokaro Steel Limited, Bokaro is justified and legal? If not to what relief the workman is entitled to?"

2. This reference is pending since about five years for filing of the rejoinder and documents on behalf of the workman for which, as it is apparent several adjournments were granted from time to time. Sri Verma appearing on behalf of the workman submits that for the last five or six years he has lost contact with the concerned workman and he has no instruction or information whether he or the sponsoring union is still interested in pursuing the present matter or not. Further, he submits that in such circumstances this Tribunal is at liberty to pass any necessary and appropriate order with respect to the final disposal of the instant reference.

The present case relates to the claim of the concerned workman regarding his promotion. It seems that either the concerned workman has already been promoted during the pendency of the present reference or he is no more interested in pursuing this matter due to some other reasons otherwise it does not stand to reason as to why the concerned workman or the union has abandoned or has left this case unattended since long. As there does not appear to be any dispute in existence for being adjudicated and since the workman himself who is person aggrieved does not want to pursue this case, it is needless to keep it pending for any longer.

Thus, this reference case is finally disposed of.

S. H. KAZMI, Presiding Officer

नई दिल्ली, 6 फरवरी, 2003

का. आ. 790.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापट्टनम पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 181/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-10-2002 को प्राप्त हुआ था।

[सं. एल-34011/9/2000-आई आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

'S.O. 790.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 181/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Visakhapatnam Port Trust and their workman, which was received by the Central Government on 29-10-2002.

[No. L-34011/9/2000-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present :

Shri E. ISMAIL, Presiding Officer

Dated : 16th September, 2002

INDUSTRIAL DISPUTE NO. 181/2002

(Old I.D. No. 35/2001 transferred from Industrial Tribunal cum Labour Court, Visakhapatnam)

Between :

The General Secretary,
Port & Dock Employees Association,
14-25-32A, Dandu Bazaar,
Maharanipeta,
Visakhapatnam.

... Petitioner

AND

The Chairman,
Visakhapatnam Port Trust,
Visakhapatnam-35.

... Respondent

Appearances :

For the Petitioner : M/s V.V. Bala Krishna, K.S. Chalam
and G. Renuka, Advocates

For the Respondent: M/s A. Krishnam Raju, G. Dinesh
Kumar, G.V.N. Babu, N.P. Rao and
T.P. Das, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-34011/9/2000-IR(M) dated 24-1-2001 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to the Industrial Tribunal-cum-Labour Court, Visakhapatnam between the management of Visakhapatnam port trust and their workman. In view of Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(C.II) dated 18-10-2001 this case has been transferred to this Tribunal bearing No. 35/2001. The reference is.

SCHEDULE

"Whether the demand of Port & Dock Employees' Association, Visakhapatnam for granting conveyance allowance in favour of their member workman Sh. B. Sriram Murthy (appointed in physical handicapped quota) from the date of initial appointment i.e. 23-6-1988 till 28-11-1997 by the management Visakhapatnam Port Trust is legal and justified? If not, to what relief the Union is entitled?"

The reference is numbered in this Tribunal as I.D. No. 181/2002 and notices issued to the parties.

2. The dispute raised by the General Secretary, Port & Dock Employees' Association about the handicapped workman Sri B. Srirama Murthy appointed in physically handicapped quota. From the date of initial appointment that is 23-6-88 to 28-11-1997. He was not paid conveyance allowance during the said period which is against law and justice. The brief facts lead to this present case are one Sri B. Srirama Murthy was initially appointed as a Messenger on physically handicapped quota (Class IV) in the Marine Department of the management as per the office order dated 23-6-88 of Dy. Conservator, Visakhapatnam Port Trust. This appointment is made only on the strength of disability certificate dated 20-11-87 issued by the Professor,

Orthopaedics, King George Hospital, Visakhapatnam. The above person was subsequently posted to the post of clerk w.e.f. 6-6-96. The employee applied for grant of conveyance allowance being handicapped basing on the disability certificate issued to him yet the employee was asked by the management to appear before the Medical Board for assessment of his physical disability and he obtained the handicapped certificate from the Medical Board on 21-11-97 and submitted to the management on 29-11-97. The Medical Board certified that his disability is 60%. This employee was granted conveyance allowance only from the date of Re-medical examination but not from initial appointment. The workman Sri Srirama Murthy is entitled for Rs. 9093/- as conveyance allowance from 23-6-88 to 28-9-97 detailed as follows :—

Sl. No.	From	To	Designation	Basic Pay Rs.	5% of Basic Pay (Max. 100/-) Rs. per month	Arrears of Conveyance allowance and allowance already drawn Rs. per month
1	2	3	4	5	6	7
1.	23-6-88	31-12-88	Messenger	1040/-	52/-	52/-
2.	1-1-89	31-5-89	-do-	1040/-	52/-	52/- (-Rs. 30/-)
3.	1-6-89	31-5-90	-do-	1060/-	53/-	53/- (-Rs. 30/-)
4.	1-6-90	31-5-91	-do-	1080/-	54/-	54/- (-Rs. 30/-)
5.	1-6-91	31-12-91	-do-	1100/-	55/-	55/- (-Rs. 30/-)
6.	1-1-92	31-5-92	-do-	1100/-	55/-	55/- (-Rs. 30/-)
7.	1-6-92	6-9-92	-do-	1120/-	56/-	56/- (-Rs. 30/-)
8.	7-9-92	31-12-92	Lascar Gr-II	1145/-	57.25/-	57.25/- (-Rs. 50/-)
9.	1-1-93	31-8-93	-do-	2225/-	100/-	100/- (+Rs. 90/-)
10.	1-9-93	31-8-94	-do-	2275/-	100/- (Max)	100/- (+Rs. 90/-)
11.	1-9-94	31-8-95	-do-	2325/-	100/- (Max)	100/- (+Rs. 90/-)
12.	1-9-95	26-5-96	-do-	2375/-	100/- (Max)	100/- (+Rs. 90/-)
13.	27-5-96	5-6-96	Lascar Gr-I	2495/-	100/- (Max)	100/- (+Rs. 90/-)

Hence, the management may be directed to pay conveyance allowance of Rs. 9093/-

3. A counter was filed admitting that the petitioner was initially appointed in the physically handicapped quota on 23-6-98 and was promoted from 6-6-96. The relative rule is as follows : "the government servants concerned shall accordingly apply for the grant of conveyance allowance to the heads of their departments. It shall be the responsibility of the head of the department concern to refer the case of the concern employee to the appropriate medical authorities for obtaining their recommendations for grant of conveyance allowance. The allowance may be granted w.e.f. the date of recommendation of the concerned medical authority is received by the head of the department." It is submitted that the petitioner applied for

grant of conveyance allowance from 17-9-97. As such he was referred to the District Medical Board and the Board issued a certificate dated 29-11-97 confirming 60% disability. He has been granted conveyance allowance @ 5% on basic pay subject to maximum of Rs. 100/- per month from the date of issued of certificate that is 29-11-97. He is not entitled for conveyance allowance for the period from 23-6-88 to 28-11-97. Though the petitioner obtained the employment in physically handicapped quota the same cannot be taken for grant of conveyance allowance. Though the grant of conveyance allowance is in accordance with the Government of India's order issued vide O.M. No. 21(1)/97/E-II(B) dated 3-10-97. Hence, he is not entitled for the conveyance allowance for the said period and it is liable to be dismissed.

4. Both the Counsels submitted that they do not have any oral evidence and marked Ex. W1 and Ex. M1. Ex. W1 is the certificate dated 20-11-97 on the basis of which the petitioner obtained the employment. Ex. M1. is the Transport (Conveyance) Allowance to Blind or Orthopaedically Handicapped Government Employees. Ex. M1. which refers to the procedure laid down for granting of extra conveyance allowance which shall be double the normal rates prescribed under G.I., M.F., O.M. No. 21(1)/97/E.II(B) dated 3-10-97.

5. It was argued by the Learned Counsel for the Petitioner that when the very basis of job is Ex. W1, he should have been provided double the rate of the transport allowance or conveyance allowance from the date of joining and not from the date of his medical examination.

6. It is argued by the Learned Counsel for the Respondent that there is a prescribed procedure that the allowance may be granted with effect from the date of recommendation of the concerned Medical Authorities received by the Head of the Department. Hence, he is not entitled for extra conveyance allowance from the date of his joining.

7. It may be seen that while Ex. M1. Sanctioning Authority para 2, states that, "all Heads of the Departments may sanction conveyance allowance in terms of these orders. The Government servants concerned shall accordingly apply for the grant of conveyance allowance to the Heads of their Departments. So it may be seen that even according to the petitioner he does not say as to when he applied for conveyance allowance. Actually the Petitioner applied for grant of conveyance allowance only from 17-9-97. However, Ex. M1. also says the allowance may be granted with effect from the date of recommendation of the concerned medical authority is received by the Head of the Department. This appears to be unreasonable. Because, the Petitioner has been appointed in physically handicapped quota on the strength of Ex. W1 which itself mentions the disability as 60%. He has applied on 17-9-97. And the same is reconfirmed even according to the counter, by their own Doctor that the disability is 60%. Moreover Ex. M1. para 2 does not state that the allowance shall be granted from the date of recommendation of the concerned medical authority. Actually the petitioner has applied on 17-9-97 and Ex. W1 is again reconfirmed that he is having 60% disability. In my opinion Ex. M1. does not restrict that it shall be paid only from the date of recommendation of the concerned medical authority. No doubt in several laws may be read as shall, but here this in an order and it only says may and I do not think it restricts the hand of the head of the Department to give the allowance only from the day when the recommendation of the concerned Medical Officer is received. Let us take for instance as a hypothetical case and presume that the recommendation of the Medical Authority is received after a year after one applies then

what is the fault of the concerned person. Here of course it is only two months but I feel that in all fairness he should be granted conveyance allowance from the date of his application namely 17-9-97. Accordingly the award is answered as follows, "The demand of Port and Dock Employees' Association, Visakhapatnam for granting conveyance allowance in favour of their member workman Sri B. Srirama Murthy (appointed in physically handicapped quota) from the date of initial appointment that is 23-6-88 to 28-11-97 by the management of Visakhapatnam Port Trust is not fully justified. The handicapped workman Sri B. Srirama Murthy is not entitled for conveyance allowance from 23-6-88 till 16-9-97 but he is entitled for conveyance allowance for the physically handicapped from the date of application that is 17-9-1997. Reference ordered accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 16th day of September, 2002.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for
the Petitioner :

NIL

Witnesses examined for
the Respondent :

NIL

Documents marked for the Petitioner

Ex. W1 : Copy of physically handicapped certificate of the Petitioner, dt. 20-11-1987

Documents marked for the Respondent

Ex. M1 : Copy of circular reg. Conveyance allowance dt. 3-10-97.

नई दिल्ली, 6 फरवरी, 2003

का. आ. 791.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैगनीज ओर (इ.) लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 21/02) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-1-2003 को प्राप्त हुआ था।

[सं. एल-29012/79/2001-आई आर (विविध)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 6th February, 2003

S.O. 791.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 21/02) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management

of Manganese Ore (I) Ltd. and their workman, which was received by the Central Government on 31-1-2003.

[No. L-29012/79/2001-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, NAGPUR**

PRESENT

Shri B.G. Saxena

Presiding Officer

REFERENCE NO. CGIT : 21/2002

The Manganese Ore (India) Ltd.

AND

SHRI ISHWAR LAXMAN TIRPUDE

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-29012/79/2001-R(M)) dt. 09-01-2002 on following schedule.

SCHEDULE

“Whether the action of the management of the Dy. General Manager (Mine), Chikla Mine of MOIL, Chikla, Distt. Bhandara (M.S.) in awarding punishment of termination from service to Shri Ishwar Laxman Tirpude, Ex-U/G. P.R. Worker w.e.f. 30-09-98 was legal proper and justified? If not, what relief the said workman is entitled to and from what date?”

This reference was received from Ministry of Labour in April, 02. The workman Ishwar Laxman Tirpude did not turn up to file Statement of Claim. Nobody turned up from the side of the workman to conduct the case. The case was adjourned to 14-05-02, 26-06-02, 23-08-02, 30-09-92, 18-11-02 and 20-01-03. On all the above dates, both the parties remained absent. Neither the workman turned up to file Statement of Claim nor anybody turned up from the side of management to contest the case.

As the workman has not submitted any Statement of Claim, no relief can be granted to him.

ORDER

The workman Ishwar Laxman Tirpude did not turn up in this Court to contest the case. The workman has not submitted any Statement of Claim, the reference is disposed of for want of prosecution.

B. G. SAXENA, Presiding Officer

नई दिल्ली, 6 फरवरी, 2003

का. आ. 792.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. सलगाँवकर माइनिंग इंडस्ट्रीज के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुंबई नं. 2 के पंचाट (संदर्भ संख्या 57/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-1-2003 को प्राप्त हुआ था।

[सं. एल-36012/1/2002-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S.O. 792.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 57/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Salgaocar Mining Industries and their workman, which was received by the Central Government on 31-1-2003.

[No. L-36012/1/2002-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II, MUMBAI**

PRESENT

S.N. Saundankar

Presiding Officer

REFERENCE NO. CGIT-2/57 OF 2002

Employer in the relation to the Management of

M/s. Salgaocar Mining Industries Ltd.

The Managing Director
M/s. Salgaocar Mining Industries Ltd.,
H.O. Salgaocar Chambers,
P.B. No. 114, Margao, Goa.

AND

Their Workmen
Shri Kashiram L. Naik,
Dessai Waddo,
Near Health Centre,
Post Colvale,
Pima, Barde, Goa
Goa-403513.

APPEARANCES:

For the Employer : No Appearance.

For the Workmen: In person.

Camp Goa Dated 10th January, 2003

AWARD

The Government of India, Ministry of Labour by its Order No. L-36012/1/2002/IR(M) dtd. 16-7-02 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act 1947 have referred the following dispute to this Tribunal for adjudication.

Whether the action of the management of M/s. Salgaocar Mining Industries Ltd. Goa in terminating the services of Sh. Kashiram L. Naik Watchman w.e.f. 24-10-2000 is legal and justified? If not, to what relief the workman is entitled for?

2. By Statement of Claim (Exhibit-6) workman Shri Kashiram L. Naik averred that he was employed as watchman in the company from 1-1-94 and that he was illegally terminated orally by the company on 24-10-2000, therefore he is entitled to reinstatement with full back wages.

3. Record shows that management company though served did not appear nor filed Written Statement, therefore the workmans claim has gone unchallenged and accepting the same I pass the following order :—

ORDER

The action of the management of M/s. Salgaocar Mining Industries Ltd. Goa in terminating the services of Sh. Kashiram L. Naik Watchman w.e.f. 24.10.2000 is not legal and justified. Management is directed to reinstate the workman in service with full back wages.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 6 फरवरी, 2003

का. आ. 793.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट ऑथोरिटी ऑफ इण्डिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 5/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-1-2003 को प्राप्त हुआ था।

[सं. एल-11011/1/2000-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S.O. 793.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airports Authority of India and their workman, which was received by the Central Government on 31-1-2003.

[No. L-11011/1/2000-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI**

Tuesday, the 10th December, 2002

Present: K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 5/2000

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Workmen and the Management of the Airport Director, Airport Authority of India, Chennai Airport.]

BETWEEN

The Secretary, : I Party/ Claimant
Chennai Airport Contract
Workers Union, Chennai.

AND

The Airport Director, : II Party/Management
Airports Authority of India,
(IAD) Chennai.

APPEARANCE:

For the Claimant : M/s. Balan Haridas & R.
Kamatchi Sundaresan,
Advocates

For the Management : M/s. Vijay Narayan & R.
Parthiban, N.Krishnakumar,
Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-I 1011/ 1/2000-IR(M) dated 02-06-2000.

On receipt of the order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No.5/2000 and notices were sent to the parties to the dispute by registered post, with a direction to appear before this Tribunal on 10-7-2000 to file their respective Claim Statement and Counter Statement and to prosecute this case further. Accordingly, learned counsel on record on either side have filed their respective Claim Statement and Counter Statement and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, reply statement, oral and documentary evidence let in on either side, the other material papers on record, the arguments advanced by the learned counsel on either side and this matter having stood over

till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows:—

“Whether the action of the management of Airport Authority of India (IAD) is legal and justified in not regularising S/Sri M.Nagaraj, R.Gopinath and Shri N.Somu? If not, to what relief the workmen are entitled?”

2. The averments in the Claim Statement filed by the I Party/Claimant Chennai Airport Contract Workers Union (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner Union has raised the dispute regarding regularisation of services of three of its member namely M.Nagaraj, R.Gopinath and N.Somu with the II Party/Management. The workers concerned in this industrial dispute are 9th standard fail and they belong to most suppressed community being Scheduled Caste and they also belong to very poor family. The concerned three workmen were taken for employment by the II Party/Management for the purpose of cleaning and doing scavenging work in Chennai Airport. Even though, they were working under the direct control and supervision of the Respondent/Management, they were treated as contract employees. The II Party/Management deny them the benefits of regular employee, made is appear as if, M.Nagaraj and R.Gopinath were engaged through a contractor by name M/s. A.V.J.Associates and N.Somu through contractor M/s. T. Girija. Along with the concerned three workmen, 19 other employees were engaged for the purpose of cleaning floor, toilet cleaning, clearing aero bridge, sweeping moping removing stickers, removing garbage cob-web cleaning in Chennai Airport owned and occupied by the Respondent/Management. The workers concerned in this dispute namely Sri M.Nagaraj and R.Gopinath and N. Somu used to work in shifts. They were allotted work by the Respondent/Management and the work done by them is perennial in nature. However, they were termed to be contract labourers and they were paid a very meagre wages every month. The Central Govt. in exercise of its power under section 10 of Contract Labour (Regulation and Abolition) Act, 1970 on the basis of the recommendation and consultation with the Central Advisory Board constituted under section 10(1) of Contract Labour Act issued a notification on 9-12-76 prohibiting employment of contract labour on and from 9-12-76 for sweeping, cleaning, dusting and watching building owned or occupied by the establishment in respect of which the appropriate Govt. under the contract labour Act is the Central Govt. Unfortunately, the Respondent/Management did not abolish the contract system for the

aforesaid activities and failed to enforce the notification of Government of India dated 9-12-76. In such circumstances, the United Labour Union representing the workers employed under the Respondent in Bombay filed Writ Petition for direction to Respondent to enforce the aforesaid notification abolishing contract labour system in the aforesaid services and to direct the Respondent to absorb all the employees doing cleaning, sweeping, dusting, washing and watching of buildings owned or occupied by the Respondent with effect from retrospective dates of their joining as contract labour in the Respondent establishment with all consequential benefits. The said Writ Petition was allowed by Bombay High Court and a direction was issued to regularise the services of the employees from the date of Writ Petition. The Respondent took the matter on appeal to Supreme Court of India and the appeal was dismissed by an elaborate order dated 6-12-96. The Respondent which is a State within the meaning of Article 12 of Constitution of India should have implemented the judgement of Hon'ble Supreme Court to the workers similarly placed and working in Chennai Airport. Unfortunately, in spite of the demand, the Respondent did not regularise the services of the workers concerned in this dispute and similarly situated 19 employees. Further, it terminated the contract w.e.f. 31-12-96 and the workers concerned in this dispute Sri M. Nagaraj, R. Gopinath and N. Somu and similarly situated 19 other employees were rendered jobless. Some of the employees who were working as cleaners moved before the Assistant Labour Commissioner (Central) Chennai, seeking redressal and questioning the adamant attitude of the Respondent in implementing the dictum laid down by the Apex Court of Land. In the course of the conciliation, the Respondent entered into a settlement under section 12(3) of Industrial Disputes Act, 1947 and the Respondent agreed to appoint on its rolls 11 employees out of 20 on or before 30-4-98. The services of the 11 employees who are covered under the said settlement was regularised during October, 1998. Unfortunately, the Respondent failed to regularise the services of the workers concerned in this dispute. In fact, the Respondent themselves should have absorbed the services of the workmen concerned in this dispute. Since the Respondent did not absorb the workmen concerned in this dispute, the Petitioner Union has raised dispute before the Deputy Labour Commissioner (Central) regarding the regularisation of the services of the workers concerned in this dispute. The conciliation talks initiated by the conciliation officer ended in a failure and he had submitted his failure report. Based on the failure report, now the above dispute is referred for adjudication. The workers concerned in this dispute have been working only for the Respondent under its direct control and supervision. The alleged contract is sham and nominal. The workers concerned in this dispute were allotted work only by Respondent and they were working only under direct supervision and control of the Respondent. In fact, apart

from attendance register maintained by the alleged contractor, the Respondent was maintaining parallel attendance register and a log book allotting work to the workers concerned in this dispute and other employees similarly situated like him. The workers concerned in this dispute were working on 6-12-96 when the Hon'ble Supreme Court had delivered its verdict in the Air Statutory Corporations's case. Since the contract labour system had been abolished in respect of cleaning and scavenging by notification issued on 9-12-76, the Respondent should have absorbed the workmen concerned in this dispute, however, they did not do so. Even after, abolition of contract labour in cleaning and scavenging to engage contract labour in the work of cleaning and scavenging is illegal. The work of cleaning sweeping and toilet cleaning is continuous in nature. Throughout the year, the workers concerned in this dispute work continuously. They work for six days a week and even on Sundays they had worked on overtime. While so, the II Party/Management by terming them as contract labour, denied the benefits enjoyed by a regular employee. Such engagement of services under the guise of contract labour system has already been held unjustified by the Apex Court in respect of the same management. The action of the management in terming the workers concerned in this dispute as contract labour, when the contract labour system itself is abolished and when the work done by them is perennial in nature would amount to nothing short of unfair labour practice. The workers concerned in this dispute have worked for more than 480 days continuously within a period of 24 calendar months. Therefore, they are deemed to be a permanent workmen with the Respondent/Management as per section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981. The Respondent/Management inspite of repeated requests for absorption did not absorb the services of the workers concerned in this dispute. The Respondent have regularised the services of the persons who have joined much later to the workers concerned in this dispute. On the contrary, they have left out the workers concerned in this dispute contrary to the verdict of Hon'ble Supreme Court in Air Statutory Corporation's case. The Supreme Court in its order has directed the Respondent to regularise the services of the employees who had been working as contract labour with the Respondent for doing the work of sweeping, cleaning, dusting and watching building owned or occupied by the Respondent. Therefore, the denial of regularisation to the workers concerned in this dispute when regularising the services of the similarly placed persons who are junior to them is an violation of article 14 of the Constitution of India and section 25H of Industrial Disputes Act, 1947. Subsequent to the judgement of the Hon'ble Supreme Court just with an intention to deny the workers concerned in this dispute absorption, their services were estopped on 31-1-1997. After doing so, the II Party/Management has taken specious plea as if

when they received instructions to carry out the implementation of the order of the Hon'ble Supreme Court by their Headquarters the workers concerned in this industrial dispute were not in employment and therefore, they cannot regularise the services. The II Party/Management have taken their own time to implement the order of Hon'ble Supreme Court. Meanwhile, to duck the issue, they had stopped the workers concerned in this dispute. Therefore, for the delay caused by the II Party/Management in implementing the Court verdict cannot be put against the workers concerned in this dispute. Before the conciliation officer, it was admitted in all terms by Respondent/Management that they had verified with the records of the contractors and found that the workers concerned in this dispute were actually working. While so, the Respondent had come up with a plea as if, the names of the workers in the concerned dispute was not forwarded to them by the contractor and therefore, they could not regularise their services. Once the Respondent have inspected the documents and having satisfied that the workers concerned in this dispute are working, then dehors the name being forwarded by contractor, the Respondent should have absorbed the services of the workers concerned in this dispute. The Respondent maintain log book in which the names of the workers concerned in this dispute are entered. From that, it would be evident that the workers concerned in this dispute have been working when the decision of Hon'ble Supreme Court was rendered. Therefore, to say that contract did not forward the names of the workers concerned in this dispute is without any basis. The workers concerned in this dispute did not approach the Respondent for regularising their services for the three years is not correct. On the other hand, the workers concerned in this dispute have been approaching individually and through the Petitioner Union seeking implementation of the Supreme Court's verdict and only when all efforts failed the present dispute was raised. The workers concerned in this dispute belong to suppressed community. The concerned workmen are deemed to be the regular employees of the Respondent Corporation. However, they were denied employment and consequent regularisation on irrelevant consideration. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to pass an award directing the Respondent to regularise the services of the workers concerned in this dispute namely Sri M.Nagaraj, R.Gopinath and N.Somu with effect from the date when the 11 co-employees were regularised and given them all consequential benefits and award costs.

3. The averments in the Counter Statement filed by the II Party/Management Airport Authority of India, Chennai (hereinafter refers to as Respondent are briefly as follows :—

This industrial dispute is not maintainable in law
The concerned three workmen in the above dispute

might have worked as contract labourers before the year 1996. After the judgement of Hon'ble Supreme Court in Air India Statutory Corporation's case guidelines were framed by the Headquarters of the Airport Authority for absorption of the contract labourers. In accordance with guidelines, particulars were called for from the contractor M/s. A.V.J. Associates to send the particulars of the workmen, but the particulars of these three workmen were not submitted by the contract for the reason that they were not working with the contractor at the time of judgement of Supreme Court and at the time of receipt of guidelines from the Headquarters and hence, their services were not regularised. There were 19 workmen who were not regularised and they raised a dispute before conciliation officer. At that time, a settlement under Section 12(3) of Industrial Disputes Act, was reached between the workmen and the Respondent/Management on 18-3-98 for regularisation of 11 contract workmen covered under the dispute. The remaining 8 workmen were not regularised, as they were not on the rolls of the contractor and the three workmen involved in this dispute are not among the 8 persons who are not regularised. Accordingly, all the workmen who are covered by settlement were regularised and the remaining were not regularised. This settlement being a settlement under Section 12(3) of the Act, it is binding on all the workmen who are parties to the dispute and therefore, it is not permissible to raise a dispute all over again. Moreover, the Petitioner Union cannot bypass the settlement made under Section 12(3) of the Act. After the regularisation of 11 workmen was done in accordance with settlement and in accordance with guidelines, the three workmen who are parties to this dispute, never approached the Respondent by making any claim. In fact, they have slept over their right for over 2 ½ years and therefore, they were also aware of the fact they could not claim regularisation in accordance with the judgement of Supreme Court or the guidelines of the management or settlement under Section 12(3) of the Act. Inasmuch as the three workmen were not contract labourers on the date of the judgement, and in view of the fact that the contractor has also refused to recognise them as contract labourers, they are not entitled to any relief in these proceedings. It is denied that the three workmen were made to work in shifts and that the work was allotted by Respondent. There was no employer-employee relationship between the management and the workmen. The only question is whether the three workmen were employed under the contractor on the date of judgement of the Supreme Court. It is stoutly denied that the workmen were working under the control of the Respondent and that the alleged contract is sham and nominal. It is also stoutly denied that the Respondent was maintaining a parallel attendance register and log book. The Tamil Nadu Industrial Establishment (conferment of permanent status to workmen) Act would not apply to the facts and circumstances of this case. The Respondent has acted

purely in accordance with the judgement of the Supreme Court. There are no merits in the Claim Statement and the same is liable to be rejected. Hence, it is prayed that the Hon'ble Tribunal may be pleased to dismiss the claim petition.

4. The averments in the reply statement filed by the Petitioner Union are briefly as follows:—

All the three workmen concerned in this dispute were not working with M/s. A.V.J. Associates. On the other hand, it is only two of the workmen Sri M. Nagaraj and R. Gopinath who were only working with M/s. A.V.J. Associates. The other workman Sri N. Somu was working with contractor M/s. T. Girija. The said three workmen were actually working with the said contractors on the date of the judgement of Supreme Court. To that effect, attendance register and wage register will be filed before this Court. Further, the contractor will vouch this fact. Therefore, to say that these workers were not working with Respondent is not correct, this statement is made just with an intention to deny the legitimate right to them. That apart, the Respondent in its reply statement filed before the conciliation officer did not take such a plea. All the workers concerned in this dispute were physically working on the date of judgement of the Supreme Court i.e. 6-12-96. In any event, since in the notification dated 9-12-76 there is prohibition of contract labour for sweeping, cleaning, dusting etc. the workers concerned in this dispute are deemed to be employees of Respondent right from the date of their initial engagement. Hence, other allegations to the contrary are denied. In the course of conciliation proceedings the Respondent agreed to regularise the services of 11 employees and as far as remaining employees, no decision was reached. The first two workers concerned in this dispute Sri M. Nagaraj and R. Gopinath are among the 9 workers who were not given the benefits of regularisation. In such circumstances, the Petitioner Union has raised the present dispute for regularisation of Sri M. Nagaraj and R. Gopinath, who under the rolls of M/s. A.V.J. Associates and for Somu who had been in the rolls of M/s. T. Girija. The workers concerned in this dispute were not in the rolls of contractor and therefore, their services were not regularised under settlement under Section 12(3) of Industrial Disputes Act, 1947 is not correct. Under the settlement there is no agreement that the case of remaining nine workers were left out and that their case for regularisation is also settled. There is no bar for the remaining employees to agitate their claim before appropriate forum. The Petitioner had been espousing the cause of the workers concerned in this dispute and demanding for regularisation of their services ever since the Supreme Court had rendered its judgement in Air Statutory Corporation of India's case. The allegation that the three workmen concerned in this dispute were not contract labourers on the date of judgment is factually incorrect. The attendance register

and wage register will prove that they were working when judgement was rendered by the Supreme Court on 6-12-96. Further allegation that contractor has refused to recognise them as contract labourers is also not correct. Hence, it is prayed that this Hon'ble Tribunal may be pleased to pass an award directing the Respondent/Management to regularise the services of the workers concerned in this dispute Sri M. Nagaraj, R. Gopinath and N. Somu with effect from the date when 11 co-employees were regularised and given them all consequential benefits.

5. When the matter was taken up for enquiry, six witnesses on the side of the Petitioner Union and one witness on the side of the Respondent/Management have been examined as WW1 to WW6 and MW1 respectively. 11 documents on the side of the Petitioner Union and 5 documents on the side of the Respondent/Management have been marked as Ex.W1 to W11 and M1 to M5 respectively. Learned counsel on either side has advanced their arguments.

6. The point for my consideration is :—

“Whether the action of the management of Airport Authority of India (IAD) is legal and justified in not regularising S/Sri M.Nagaraj, R. Gopinath and Shri N. Somu? If not, to what relief the workmen are entitled?”

Point :—

Though the Petitioner Union has raised this dispute on behalf of the three concerned workmen, Sri M.Nagaraj, R. Gopinath and N. Somu, the Union has prosecuted this case only in respect of Sri M. Nagaraj and R. Gopinath and they have not represented this case on behalf of the other workman Sri N. Somu. The main contention of the I Party/Union is that the three concerned workmen and 19 other employees were engaged for the purpose of cleaning floor, toilet cleaning, cleaning aero bridge, sweeping, moping, removing stickers, removing garbage and other works in the premises owned and occupied by the Respondent/Management and that the workmen Sri M. Nagaraj and R.Gopinath were engaged through the contractor M/s. A.V.J. Associates and the other workman N. Somu through M/s. T. Girija. It is further contended by the Petitioner Union that the Respondent/Management has terminated the contract w.e.f. 31-1-1997 and the workers concerned in this dispute and similarly placed other 19 employees were denied employment and that in the course of conciliation, a settlement under Section 12(3) of Industrial Disputes Act, 1947 was entered into and under that settlement the Respondent has agreed to appoint on its rolls 11 employees out of 20 employees on or before 30-04-1998 and the services of the 11 employees were regularised during October 1998 and that the Respondent failed to regularise the services of the three employees who are concerned in this dispute contending that they were not in service on 6-12-1996 when the judgement of

Hon'ble Supreme Court was rendered in Air Statutory Corporation's case. It is further contention of the I Party/Union that it is factually incorrect since all the three concerned workmen involved in this dispute have worked till the end of January 1997. From the attendance register and wage register for the months of December 1996 and October 1996 respectively, it would be evident that the concerned workmen have worked till the end of January 1997 and that the reliance placed by the Respondent on the settlement dated 18.3.98 is of no consequence and the concerned workmen in this dispute cannot be discriminated for no fault on their part when 11 other employees have been regularised. It is further contended that the concerned workmen were working under the direct control and supervision of the Respondent and therefore the contract itself was sham and nominal and that the Respondent/Management having regularised the services of other employees who were similarly situated like the concerned workmen in this dispute, cannot in an arbitrary manner deny regularisation to the concerned workmen in this dispute and the contractors were only name lenders under the contract of the Respondent/Management. For all these contentions, there is no satisfactory evidence by way of proof on the side of the Petitioner Union. The allegations that the contract is only sham and nominal and the concerned three workmen were employed directly by the Respondent/Management have not been proved. It is the contention of the Petitioner Union in the Claim Statement that the Central Govt. has issued a notification dated 9-12-1976 prohibiting employment of contract labour on and from 9-12-76 for sweeping, cleaning, dusting and watching building owned or occupied by the Respondent/Management, but the Respondent/Management did not abolish the contract system for the said work and failed to enforce the notification of the Government of India dated 9-12-1976 and that the Bombay High Court issued a direction to regularise the services of the employees and the appeal preferred by the Respondent to Supreme Court was dismissed by an order dated 6-12-96 reported in 1997 (1) LLN 75 Air India Statutory Corporation's case. Ex. M1 is the xerox copy of the Notification dated 9-12-1976 issued by the Central Govt. referred to by the Petitioner Union in the Claim Statement. Ex. M5 is the xerox copy of the contractual agreement between the Respondent and the contractor M/s. T. Girija for the job contract for providing services of cleaning of electric equipments and installations at the Madras Airport. Under that agreement only the contractor has to employ personnel for doing the work taken as job contract. Ex. M3 is the guidelines issued from Headquarters that has to be followed for implementation of Supreme Court directions, as per its judgement dated 6-11-96 in respect of employees in the field of sweeping, cleaning, dusting and watch and ward. One of the directions is that a person deployed on 6.11.96 will continue to work directly under Airport Authority of India to be supervised by the concerned

caretakers etc. In pursuance of the same, a proceedings has been issued by the Respondent dated 21-2-1997. The xerox copy of the same is Ex.M4. As per the proceedings under Ex.M4, affidavit should be taken from the concerned contract labourers in the format circulated already and by virtue of the judgement of Supreme Court, the contract labourers employed as on 6-11-1996 should be treated as AAI employees. The notification dated 9-12-1976 under Ex.M1 has been quashed by the judgement of the Supreme Court reported as 1997 (1) LLN 75. This judgement of the Supreme Court has been quashed by the subsequent judgement of the Supreme Court dated 30-08-2001.

7. It is admitted in the Claim Statement itself that in the course of conciliation, the Respondent/Management entered into a settlement dated 18-3-98 under section 12(3) of Industrial Disputes Act, 1947 and the Respondent had agreed to appoint on its rolls 11 employees out of 20 on or before 30-04-1998 and the 11 employees who are covered under the said settlement were regularised during October, 1998. The xerox copy of the said settlement is Ex.M2. A perusal of Ex.M2 clearly shows that Sri R. Balasubramaniam and 19 others who were employed as contract labourers under M/s. A. V.J. Associates as shown in Annexure A for the work of cleaning etc. in the Respondent premises on the date of 6th December, 1996 have demanded regularisation of service by the Respondent/Management. As per the terms and conditions, the Respondent/Management had agreed to absorb Sri R. Balasubramaniam and 10 others into regular services of Airport Authority of India, Chennai Airport with the stipulated conditions. One of the signatories to the settlement was the authorised representative Sri G.K. Panicker, who has signed the Claim Statement now on behalf of the three concerned workmen. The names of the eleven persons have been mentioned in Annexure B to that Settlement in which the names of these three present workmen are not there. It is a settlement arrived at under section 12(3) of the Industrial Disputes Act, 1947 between the Respondent/Management and the representatives of the Union. So as contended by the learned counsel for the Respondent, the present signatory to the Claim Statement, who was also the representative and signatory to the settlement under Ex. M2 cannot claim that it is not binding on the present Petitioners/concerned workmen. The very fact that these persons, the concerned three employees in this dispute, were not considered under that 12(3) settlement under Ex.M2, clearly shows that they were not in the employment of the concerned contractor as on 6-12-1996. Further, for the allegation of the Petitioner Union in the Claim Statement that it is only a sham and nominal contract between the contractor and the Respondent/Management, no acceptable evidence has been let in and it has not been proved. Further it is seen that out of the 20 persons names mentioned in Annexure A to Ex. M2, the names of the present

concerned workmen in this dispute are not available. Further in the Ex.W2 the Xerox copy, when the dispute has been raised before the conciliating authority by the Petitioner Union, it has been stated that Sri M. Nagaraj and R. Gopinath concerned workmen in this dispute who are the Petitioner/Workmen No. 1 and 2 were employed as Sweepers in the Respondent/Airport Authority of India under a labour contractor M/s. Venkateswara Enterprises. Only in the reply statement filed by the Respondent/Management before the conciliating authority, the Respondent has stated that the Petitioner Sri Gopinath was engaged in the contract system in the field of cleaning under the contractor M/s. A.V.J. Associates and his service was not regularised along with the other contract workmen during 1997 since his particulars were not submitted to the Respondent by the contractor under whom he was employed at the time of receipt of Respondent Headquarters guidelines. So, on seeing that the Respondent mentioned in the reply statement before the conciliating authority that these persons have been engaged under M/s. A.V.J. Associates, the Petitioner has mentioned in their Claim Statement, that these three persons have been employed by the contractor M/s. A.V.J. Associates, which is quite contrary to the earlier stand they have taken in the 2A petition filed before the conciliating authority. That was why the signatory to the Claim Statement, Secretary, Chennai Airport Contract Workers Union, Sri G.K. Panicker has deposed in his evidence as WW1 that Sri M. Nagaraj and R. Gopinath were working under one contract known as M/s. A. V.J. Associates and Sri Somu was employed by another contractor M/s. T. Girija. In the cross examination, the WW1 has admitted that he has not seen the contract between the principal employer Airport Authority of India and the contractor personally and he has also admitted that these three claimants have not signed the attendance register maintained separately for the contract workers by the Respondent and that these claimants were received wages only from their respective contractors and settlement dated 18-3-98 was arrived at between the parties to that settlement and he is one among the persons representing the workmen in that settlement and he has also subscribed his signature in the document which was prepared for that settlement. So, all these go to show that having a party to the settlement earlier under Ex.M2, WW1 has come forward with a different version here by raising a claim on behalf of the concerned workmen. So on the various stands taken by WW1 before the conciliating authority and before this Tribunal, it is seen that he has not come forward with truth. He has also admitted that he has signed the settlement under Ex. M2 before the conciliating authority. Having signed the 12(3) settlement under Ex. M2, WW1, the signatory to the Claim Statement on behalf of the concerned workmen cannot come and say that it is not binding on the concerned workmen who are also the members of the Union. It is the evidence in chief of WW1

that Sri M. Nagaraj, R. Gopinath and Somu, the persons as members of the union are concerned with this industrial dispute. So, the Petitioner Union has to accept the 12(3) settlement under Ex. M2 or to reject the same as a whole. It is not the stand of the Petitioner Union that the earlier settlement under Ex. M2 under section 12(3) of Industrial Disputes Act, 1947 is being rejected and no action is taken to declare as null and void stating that it is an unjust and unfair because the names of these concerned workmen have been omitted in that settlement. So, it cannot be said that the said settlement is not binding on the persons who are also the members of the Union in this dispute. WW1 is the Secretary, who has signed that 12(3) settlement under Ex. M2. So, under such circumstances, it can be held that the action of the management of Airport Authority of India is legal and justified in not regularising S/Sri M. Nagaraj, R. Gopinath and N. Somu in service. Hence, the concerned workmen are not entitled for any relief. Thus, the point is answered accordingly.

8. In the result, an Award is passed holding that the concerned workmen S/Sri M. Nagaraj, R. Gopinath and N. Somu are not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 10th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

For the I Party/Claimant : WW1 Sri G.K. Panicker
WW2 Sri M. Nagaraj
WW3 Sri R. Gopinath
WW4 Sri N. Somu
WW5 Sri R. Balasubramaniam
WW6 Sri B. Arvind Kumar

For the II Party/Management : MW1 Sri M. Natarajan

Documents Exhibited :—

For the I Party/Claimant :—

Ex. No.	Date	Description
W1	20-01-2000	Xerox copy of the letter from M/s. T. Girija contractor To Respondent/Management.
W2	28-05-99	Xerox copy of the letter from Petitioner Union to Deputy Labour Commissioner (Central) raising dispute On behalf of the concerned workmen.
W3	29-12-99	Xerox copy of the reply statement filed by Respondent Before Deputy Labour Commissioner (Central) in respect of Nagaraj.

W4	29-12-99	Xerox copy of the reply statement filed by Respondent Before Deputy Labour Commissioner (Central) in respect of Gopinath.
W5	29-12-99	Xerox copy of the reply statement filed by Respondent Before Deputy Labour Commissioner (Central) in respect of N. Somu.
W6	03-01-2000	Xerox copy of the counter to statement of reply filed by Petitioner Union before Assistant Labour Commissioner.
W7	25-01-2000	Xerox copy of the reply to rejoinder filed by Respondent.
W8	31-01-2000	Xerox copy of the failure of conciliation report.
W9	18-03-2002	Specimen writings of WW5 R. Balasubramaniam.
W10	Oct. 1996	Signature on the revenue stamp as first entry in Register of wages.
W11	Octo. 1996	Signature on revenue stamp as fourth entry in register of wages.

For II Party/Management :—

M1	09-12-76	Xerox copy of the notification issued by Central Govt.
M2	18-03-98	Xerox copy of the Settlement u/s. 12(3) of I.D. Act Between Respondent and Balasubramaniam & 19 others.
M3	29-01-97	Xerox copy of the guidelines issued from Headquarters.
M4	21-02-97	Xerox copy of the proceedings of the Respondent.
M5	25-11-94	Xerox copy of the agreement between the Respondent And M/s. T. Girija contractor.

नई दिल्ली, 6 फरवरी, 2003

का. आ. 794.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. ई. सी. बोस एण्ड कं. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-01-03 को प्राप्त हुआ था।

[सं. एल-38012/1/90-आई आर (विधि)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S.O. 794.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central

Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. E.C. Bose and Co. and their workman, which was received by the Central Government on 31-01-03.

[No. L-38012/1/90-IR(M)]
B. M. DAVID, Under Secy.

ANNEXURE

INDUSTRIAL TRIBUNAL : ORISSA : BHUBANESWAR :

Present :

Sri A.K. Samantaray, OSJS (Sr. Branch),
Presiding Officer, Industrial Tribunal Orissa,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 8 OF 1990 (Central)

Dated, Bhubaneswar, the 10th January, 2003.

BETWEEN :

The Management of
M/s.E.C.Bose & Co. (Paradip) (P) Ltd.,
60, Madhuban Market Complex,
P.O. Paradip Port, Dist : Cuttack-754142.

First Party-Management

AND

Their workman Sri S.M. Amin,
At : Ramakrishnapur,
P.O. Natkai, P. S. Salipur,
Via : Nischintkoili, Dist : Cuttack.

Second Party-Workman

APPEARANCES :

Sri P. K. Choudhury, Advocate—For the First party—
Management.

Sri Sanjib Mohanty, Advocate—For the Second Party—
Workman.

AWARD

The Government of India in the Ministry of Labour having been satisfied that there exists an industrial dispute between the management of M/s.E.C. Bose & Co. Pvt.Ltd., Paradip and Sri S.M. Amin, Ex-Supervisor of the said Company, in exercise of powers conferred by clause (d) of Sub-section (1) and (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:—

“Whether the action of the management of M/s. E.C. Bose & Co. (P) Ltd. Paradip, Stevedores/ Contractors in refusing employment to Sri S. M. Amin, Ex-Supervisor w.e.f. 1-2-83 is justified? If not, to what relief the workman is entitled?”

2. The dispute under reference may be stated as follows:—

The workman (second party) while in employment of the management of M/s.E.C.Bose & Co. as a Supervisor met with an accident on 25-10-76 and became incapable of discharging his normal work. The workman filed W.C. Case No. 35 of 1978 before the Commissioner of workmen's compensation claiming a compensation of Rs. 58,280/-. The Commissioner after hearing arrived at the finding that the accident arose out of and in course of employment and did not accept the employer's plea that it was caused by the claimant's own negligence. While discarding the claim of Rs. 58,280 the Commissioner held that the disability of the claimant-workman being of a permanent nature the compensation of Rs. 9,339.40 paise was just and fair besides Rs. 1,000/- towards medical expenses. The Commissioner in its order further required the employer to find out an alternate job which the workman would be able to perform. Being aggrieved by the aforementioned order of the Commissioner, the claimant-workman took the matter to the High Court in Misc. Appeal No. 335 of 1981 and the Hon'ble Court disposed of the same on 21-1-85 with a direction as follows:—

“*** *** *** *** *** The Commissioner while refusing to give any further compensation had clearly indicated that the employer should give him an alternate job. I sustain the direction and since the appellants (workman) has agreed to go back to his former job where he was getting Rs. 240/- per month, I direct that the appellants should go back to that job from 1st February, 1983. The appellants should be paid the appropriate salary payable to those who were drawing salary at the rate of Rs. 240/- per month in 1976. The appellants had been paid around Rs. 10,000/- by way of compensation. But that does not seem to be really adequate considering the nature of the injury and its consequence on the life of the appellants. I am inclined to direct that a further sum of Rs. 7,500/- should be paid by way of compensation. The compensation amount be paid within one month from now to the appellants or deposited with the Compensation Commissioner for disbursing the same to the appellants within the same period. The appeal is allowed and disposed of with the aforesaid directions. In the event of failure to pay the compensation as directed, the same may be recovered in accordance with law with interest at 10% p.a. from today. In the event of the appellants not being provided the job as directed, the Compensation Commissioner can be moved again to suitably enhance the compensation.”

It would be profitable to mention that in course of hearing of M.A. 335 of 1981 the appellants workman personally appeared and the Hon'ble Court had observed

in the judgment that his injured leg had still an oozing injury and appeared to have been permanently maimed and that the appellant had managed to walk with considerable difficulty. The appellant had also agreed before the Hon'ble Court that he was prepared to go back to duty if he was given a job which would not involve movement or hard work. In pursuance to the aforesaid judgment in M.A. No. 335 of 1981 though additional compensation was paid in four instalments between 7-8-84 and 6-9-84, the concerned workman could not be provided with an alternate work by the management as directed. The workman hence filed again W.C. Case No. 1 of 1985 before the Commissioner of Workmen's Compensation claiming interest on the compensation amount, reinstatement or additional compensation in the event of failure on the part of the management to reinstate him. The management, on the other hand, stated before the Commissioner that in spite of the letter of appointment issued to the workman, the claimant-workman was unwilling to join service on one pretext or other and he was bent upon making frivolous allegations against the management which was ready and willing to abide by the directions contained in M.A. No. 335 of 1981. The Commissioner after recording evidence led by both parties and keeping in view the judgment of the Hon'ble High Court disposed of the W.C. Case No. 1 of 1985 on 27-3-87 with the direction as under" :—

"In the result, the application is allowed and the O.P. (Management) is directed to pay to the applicant (workman) a sum of Rs. 12,700/- (i.e., Rs. 7,700/- + Rs. 5,000/-) as discussed by me above within a period of thirty days from the date of publication of this order, failing which the compensation amount shall carry 12% interest p.a. besides attracting penal liabilities. There shall be no claim to employment by the applicant in view of the above direction."

The above order of the Commissioner was assailed by the management as well as by the claimant workman before the Hon'ble High Court and finally in M.A. No. 175 of 1987 which was disposed of on 18-11-88, the Hon'ble Court passed the following orders :—

"I am told that he (the workman) has joined the service and order dtd. 3-10-88 indicates that the appellant (workman) has been allowed to join. Though Mr. Roy's contention that failure to reinstate for causes attributable to the workman would not entitle him to additional compensation has considerable weight, I am not inclined to interfere with the order directing payment of additional compensation by the employer on humanitarian ground. After all the appellant has been disabled though partially. Having regard to the peculiar facts of this case, award of a couple of thousands more than the workman deserves when the appellant had been out of the job for some years and has been

reinstated also, should not agitate the employer. Hence, since strictly the appellant was not entitled to the additional compensation awarded by the Commissioner especially when he has been reinstated now, I would decline to interfere in the appeal. If however, the petitioner (workman) is not allowed to render service or is not paid his wages, it shall be open to him to approach the appropriate authority for redress. Accordingly, both the appeal and cross appeal are dismissed."

After this order of the Hon'ble Court the workman joined service on 11-7-88 but shortly thereafter remained absent from duty and the management by its letter dtd. 21-10-88 required him to join immediately. In the said letter it was alleged by the management that the workman had absconded from Paradip since 25-9-88 without any intimation and that he was not available at the site during working hours or when available was whiling away his time without performing the assigned duty. The said letter concluded with the observation that the workman's plea of Court order and union activities etc. were creating difficulties for the management and indiscipline amongst staff members. In reply the workman by his letter dtd. 28-10-88 denied the allegations made by the management and asked for leave till 10-11-88 on the ground of self-illness. It is found from the deposition of the workman W.W. No. 1 that thereafter he refused to work as because the management placed him under the direct control of a contractor. The management in the circumstance treated the refusal as abandonment of work on the part of the workman. Since the deadlock persisted the workman again moved the Regional Labour Commissioner claiming reinstatement and/or compensation in lieu thereof. The Regional Labour Commissioner attempted for a conciliation but in vain for which the reference was made to this Tribunal.

3. As I find, before this Tribunal the workman has claimed reinstatement and/or in lieu thereof compensation to the tune of Rs. 6,70,780.82 paise. The management in its turn has challenged the jurisdiction of this Tribunal to entertain the reference on the ground that the Regional Labour Commissioner has no locus standi to refer the dispute u/s 10 of the Industrial Disputes Act as M/s.E.C.Bose & CO. being registered under the Orissa Shops & Commercial Establishments Act comes within the jurisdiction of the District Labour Officer, Jagatsinghpur. It is further pleaded by the management that on ground of permanent disability the workman has already received the compensation awarded in his favour and that the compensation being in lieu of reinstatement he cannot raise any further claim for reinstatement, far less compensation in lieu thereof.

4. This Tribunal while reserving the answer on the question of jurisdiction passed an exparte order in favour

of the workman on the ground of absence and non-participation of the management. The management thereafter challenged the legality of the Award in the Hon'ble High Court in O.J.C. No. 4270 of 1993. In the High Court the management raised the question of jurisdiction and pleaded that the reference was incompetent as the Central Government is not the appropriate authority so far as the present dispute is concerned. The Hon'ble High Court finally set aside the ex parte order and remitted the reference to this Tribunal with a direction to decide whether the reference made by the Central Govt. was competent.

5. The reference after it came for fresh adjudication before this Tribunal, the Tribunal for an effective adjudication framed three issues for consideration on the aforementioned admitted facts and circumstances.

- (1) Whether the reference is competent ?
- (2) Whether the action of the management in refusing employment to the workman w.e.f. 1-2-83 is justified ?
- (3) If the action of the management is not justified, to what relief the workman is entitled ?

6. Before this Tribunal, during hearing the workman examined himself as W.W. No. 1 and on behalf of the management an executive of M/s. E.C. Bose & Co. was examine as M.. No. 1. Some documents were also exhibited by the parties on admission during various stages of the hearing. This Tribunal after taking the evidence and hearing arguments came to the conclusion that the reference is maintainable; that the management has not refused employment, but the workman has abandoned the job offered to him on flimsy pretext and that payment of Rs. 7,000 towards litigation expenses by the management would meet the ends of justice. This Tribunal directed the management to pay to the workman Rs. 7,000 within one month from the date of publication of the award failing which the amount shall carry interest @ 12% per annum.

7. Being aggrieved by the Award passed by this Tribunal dtd. 21-8-95, the workman preferred O.J.C. No. 8184 of 1995 before the Hon'ble High Court of Orissa and the Hon'ble Court by order No. 11 dtd. 9-10-96 passed an interim order, the relevant portion of which is extracted below :—

“Be that as it may, on the basis of the record, we hold that the petitioner is entitled to be reinstated. An apprehension on the part of the authorities canvassed by Sri Mohapatra that even if the workman is allowed to join as “Site Supervisor” the permission of the Port Authority may be required and the workman may be prevented by the Union. We make it clear that in terms of the judgment of the Court, arising out of the award of the Industrial Tribunal, the Petitioner should join and the

Management has no objection to permit the workman to join. Considering these aspects we hold that the workman should report to duty before O.P. No. 2 within ten days. In the event of reporting for duty, the management would permit him to join there and would recommend to Port Trust authorities for giving such permission as the regulation may require, observe, inter alia, that as an employee of M/s. S.C. Bose & Co. (P) Ltd. Contractor, the Port Trust authority will permit such privileges or permission as admissible as per the prevailing Regulations. In the event, the workman is prevented by any workmen's Union both the Management and the workman will be free to seek help of local police authorities if the situation so demands. A report must be filed by the Management as to the compliance within one week after vacation. The matter will further appear two weeks after the Puja Vacation. We make it clear that the workman found not claim anything towards back images at present. The same will be considered later on. The matter remains heard in part.”

However, ultimately, the Hon'ble Court by order dtd. 4-1-2000 dismissed the O.J.C. No. 8184 of 1995 finding no merit in the writ application and the Hon'ble Court's order dtd. 4-1-2000 may be quoted as under :

“The writ petitioner has challenged the judgment and award of the Industrial Tribunal, Bhubaneswar, passed in Industrial Dispute Case No. 8/90 on August 21, 1995, in part, whereby the petitioner was not allowed back wages, although an order of reinstatement was passed in his favour.

2. The Tribunal has refused the relief of back wages on the basis of its finding, that the petitioner did not accept the alternative job offered to him and on various pleas. It is not possible for us to interfere with the said finding in this writ jurisdiction particularly when the finding does not appear to be perverse or without any basis.

3. It appears from the orders recorded in this case and the affidavit filed by O.P. No. 2 on April 27, 1999 that the petitioner has already been reinstated and is being paid regular salary.

Accordingly, we do not find any merit. In this writ application, which is accordingly dismissed.”

After dismissal of the O.J.C. No. 8184 of 1995 the workman/petitioner filed Civil Review No. 29 of 2000 before the Hon'ble High Court which was disposed of on 17-5-2002 and the Hon'ble Court while allowing the review petition recalled its order dated 4-1-2000 and disposed of the writ petition by setting aside the judgment and Award of the Tribunal and sent back the record to

this Tribunal for the purpose of considering whether the employer offered the petitioner-employee a job as its own employee or placed him under a contractor as an employee of the said contractor. The Hon'ble Court also ordered this Tribunal to consider the question of petitioner's claim for back wages in accordance with law on the basis of its finding about the nature of employment stated to have been offered by the employer. The Hon'ble Court ordered this Tribunal to allow both the parties to adduce further evidence on the said questions, if they so like.

8. After the record was received back in this Tribunal and both parties appeared, this Tribunal framed two additional issues as -per the observations of the Hon'ble Court and the issues are :—

- (i) Whether the employer offered the employee-second party S. K. Mohammed Amin a job as its own employee or placed him under a contractor as an employee of the said contractor?
- (ii) Whether the second party is entitled to back wages on that basis of his employment which was offered to him in the year 1988?

9. As per the orders of the Hon'ble Court, both the parties were called upon to adduce additional evidence, if they so like and the second party workman declined to adduce any further evidence and filed a memo to that effect on 5-11-2002. The first party-management, however, in its turn re-examined and adduced further evidence through its Executive Rabintra Sahu, M. W. No. 1 who was cross-examined by the workman and also filed a petition for cross-examining the workman, W. W. No. 1 which was allowed and the workman was further cross-examined.

10. Since the Hon'ble Court have directed in the Civil Review No. 29 of 2000 to consider and find out the nature of job the employer offered to the workman employee i.e., whether the job was as its own employee or the workman was placed under a contractor, I would like to take-up. Issue No. (i) first.

11. In his additional evidence M.W. No. 1 has deposed categorically that the workman Sri Amin worked with M/s. E.C. Bose & Co. in the year 1988 by order of the Hon'ble High Court and he joined with that management in the year 1988. He has further deposed that he continued for about two months and ten days and thereafter left the job and he had received his wages for the said two months ten days period for which he had worked. The workman although cross-examined him there is absolutely nothing to discredit his testimony on oath. As stated earlier, the management has cross-examined the workman (W.W. No. 1 on 26-11-2002 and in his evidence at para-10 W.W. No. 1 has admitted spelling out in clear terms that on joining on 12-7-88 he worked in E.C. Bose & Co. for two months and twenty days. He has also stated that he only received

Rs. 555 from the company for the said period of two months and twenty days and during the said period of two months and twenty days he was performing the Site enquiry duty being sent by the company. He has finally stated that as the company has driven him out of employment, he came away leaving the company.

In this connection, it was vehemently urged and argued by the learned counsel for the first party-management that the allegation of the workman as made before in his chief examination that he refused to work because he was asked to work under a contractor is nothing but false and such an allegation was made with an ulterior motive. Referring to his statement that he has received his wages for two months and twenty days from the company and that he was performing the Site enquiry duty during the said period being sent by the company totally falsifies his earlier plea that the company placed him under a contractor. In view of the crystal clear evidence in the mouth of the second party-workman, I have no other go than to hold that the workman was employed under M/s. E.C. Bose & Co. itself and that the company did not place him under any contractor, as alleged by the workman.

Hence, this issue is answered accordingly.

12. Now coming to issue No. (ii), from the evidence on record I have categorically found that the second party-workman joined and worked with M/s. E.C. Bose & Co., the first party-management in the year 1983 and the first party-management had not placed him under any contractor which goes to show that he was directly under the employment of the first party-management and after working for a short period i.e. for two months and twenty days, he left the service suo motu for reasons best known to him. When the first party-management had accepted him in its own employment and offered him service which he performed and he left the same without any reasonable cause and the cause espoused by him that he was placed under a contractor having been negated by his own statement on oath in his cross-examination, he cannot be entitled to any back wages from the period he left the service. There is evidence on record that since 15-10-96 the second party-workman has joined the E.C. Bose & Co. by orders of the Hon'ble High Court and he is continuing with the said company as an employee of the company till date.

In that view of the matter, when the workman left the service suo motu in the year 1988, he is not at all entitled to any back wages.

The Issue No. (ii) is answered accordingly.

Dictated and corrected by me.

SRI A.K. SAMANTARAY,
Presiding Officer

नई दिल्ली, 6 फरवरी, 2003

का. आ. 795.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान जिंक लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार श्रम न्यायालय, उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-2-2003 को प्राप्त हुआ था।

[सं. एल-29011/92/2001-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 6th February, 2003

S.O. 795.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Udaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management Hindustan Zinc Ltd. and their workman, which was received by the Central Government on 5-2-2003.

[No. L-29011/92/2001-IR (M)]

B. M. DAVID, Under Secy.

मु. नं. 11/2002, I.T.R. केन्द्र सरकार

अनवान : सौभाग सिंह Vs. जन. मैन. नं. H.Z.L. मद्रुनमाईक

अधि :—L. 29011/92/01-IR(M), 12-5-2002

निर्णय

6 जनवरी, 2003

प्रार्थी के प्रा. पत्र पर पत्रावली पेश हुई। प्रार्थी स्वयं उपस्थित। प्रार्थी ने अपने प्रा. पत्र में निवेदन किया कि प्रार्थी का विपक्षी से समझौता हो गया है और प्रार्थी अब इस विवाद में कोई कार्यवाही नहीं चाहता है, प्रार्थी ने शपथ-पत्र पेश मू. प्र. अतः अब प्रा. पत्र प्रार्थी कार्यवाही नहीं चाहने से विवाद में अब कोई कार्यवाही शेष नहीं होने के कारण प्रार्थी के पक्ष में "कोई विवाद नहीं" "नो डिस्प्यूट" एवार्ड जारी किया जाता है।

सूचना—भारत सरकार को भेजी जावे पत्रावली फेसल शुमार होकर दाखिल दफ्तर हो।

ह०/अपठनीय, न्यायाधीश

नई दिल्ली, 10 फरवरी, 2003

का. आ. 796.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन एयरलाइन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 40/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-2-2003 को प्राप्त हुआ था।

[सं. एल-11011/4/90-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 10th February, 2003

S.O. 796.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 40/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Airlines and their workman, which was received by the Central Government on 10-2-2003.

[No. L-11011/4/90-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

RUDRESH KUMAR : Presiding Officer

I.D. No. 40/2002 (Delhi No. 106/90)

Ref. No. L-11011/4/90-IR(Misc.) dated 17-9-90

BETWEEN

The General Secretary,

General Mazdoor Union,

O-2, Mangolpuri, Delhi-110083

AND

The Managing Director, Indian Airlines,

Air Lines House, New Delhi - 110001

AWARD

By order No. L-11011/4/90-IR(Misc.) dated 17-9-90, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the I.D. Act, 1947 (14 of 1947) referred this Industrial Dispute between the General Secretary, General Mazdoor Union, 2, Mangolpuri, Delhi and the Managing Director, Indian Airlines, Air-Lines House, New Delhi for adjudication to the CGIT-cum-Labour Court, New Delhi. Later, vide order No. Z-20025/54/2001-CLS-II dated 19-4-2002 the Central Government, transferred this Industrial Dispute to this Tribunal for adjudication.

The reference under adjudication is reproduced :

"WHETHER THE ACTION OF THE MANAGEMENT OF INDIAN AIRLINES, NEW DELHI NOT GIVING THE SCALE OF PAY OF RS. 910—1700 TO M.C. SHUKLA, SR. AIR-CRAFT TECHNICIAN, KISHAN LAL, AIR-CRAFT TECHNICIAN AND SATPAL, AIR-CRAFT TECHNICIAN IS JUSTIFIED. IF NOT, TO WHAT RELIEF THE WORKMAN ARE ENTITLED?"

2. All three Sr. Aircraft Technicians, viz. M.C. Shukla, Kishan Lal and Satpal have raised a joint industrial dispute impugning action of the management of Indian Airlines, New Delhi, in not granting them pay scale of Rs. 910—1700, despite their having obtained four approvals from DGCA, whereas some other employees with the same qualification doing similar nature of duties have been sanctioned the said scale. The reference order does not clarify as from what date the desired scale is being, claimed by the workmen. However, in the claim statement the cause of admissibility to each of them has been given.

3. As alleged, M.C. Shukla was appointed on 6-2-80 as Aircraft Technician in the pay scale of Rs. 425—1110 and at the time of raising the dispute was placed in the scale of Rs. 600—1300. During the course of conciliation proceeding he was placed in the scale of Rs. 630—1450 revised to the scale of pay Rs. 1605—2645. Satpal was appointed on 3-5-82 in the scale of 425—1110 but later placed in the scale of Rs. 600—1300 revised to Rs. 1555—2465 w.e.f. 30-6-90, Kishan Lal was appointed on 8-2-82 in the scale of Rs. 425—1110 as Air-Craft Technician and he was also in the scale of Rs. 600—1300 at the time of raising of the dispute.

4. All of them were initially appointed as Air-Craft Technician and became DGCA approved Welders in the Engg. Department. M.C. Shukla got four approvals on 24-5-82. Kishan Lal on 16-11-85 and Satpal on 3-2-86. The grievances of the workmen are that even on their obtaining four approvals in Welder trade they continue to be placed in lower scale, instead of Rs. 910—1700 revised to Rs. 2005—2965. The job of Welders is skilled and for operation, they require continuous efforts to maintain acceptable level of skill which is essential to ensure the worthiness of Aircraft. As per rules, regulations and the circulars, they obtained two approvals should have been placed in the pay scale of Rs. 630—1450 revised to 1605—2645 w.e.f. 1-10-1985 and on obtaining four approvals should have been placed in the pay scale of Rs. 910—1700 revised to Rs. 2005—2965. They made representations to the Chief Engineering Manager but he declined to consider their promotion in the higher scale on plea of non-availability of vacancies as per the standard force. According to workman, the plea of the management is totally misconceived, as the availability of vacancies as per the standard task force has nothing to do with the approvals. As per the rule laid down, the acquisition of group of approval is sufficient for entitlement of the higher scale. The workmen seek parity with those with four approvals getting scale of Rs. 910—1700, revised to Rs. 2005—2965. Out of six welders who have obtained four approvals in Delhi region two of them are placed in the scale of Rs. 910—1700 revised to Rs. 2005—2965 and workmen doing the same job have been denied the same scale of wages, against the principle of equal pay for equal work.

5. The management of the Indian Airlines has contested the claim. It is denied that the workman are entitled to scale of Rs. 910—1700 revised to Rs. 2005—2965 w.e.f. 1-10-85, or any other date unless vacancies in the said scale exist and workmen selected by the selection board. Admittedly, they were employed as Air-Craft Technician in welder trade in Engg. Department of the Indian Airlines. They were represented by Indian Airlines Technician Association (IATA) a recognised association of Airlines in determination of their promotion policy and service conditions etc. These conditions are changed by settlements arrived at between IATA and Indian Airlines, from time to time. The IATA, representative union of the workmen declined to espouse their cause as the demands were unjustified.

6. On merit, the case of the Indian Airlines, is, that as per the provision of the Recruitment and Promotion rules, as and when vacancies arise, the eligible candidates are subjected to test/interview and those found suitable by a duly constituted selection/promotional board, are admitted to higher grade/pay scale. The management has not contested the fact that all the three workmen obtained four approvals from DGCA. It challenges the claim stating that by getting four approvals, these workmen became eligible for consideration through test/interview by a duly constituted selection board, on availability of vacancies. The claim of higher scales ipso facto on getting four approvals; is neither legal nor justified. On promotional higher pay scale, one is not placed automatically, simply on getting approvals alone. Higher scales are admissible to eligible candidates on availability of vacancies subject to selection by duly constituted selection board as per R and P rules. It is conceded that Aircraft Technician (Welder) are entitled to special approval allowances, as incentive.

7. It is further stated that for purposes of appointments and promotions in the grades/pay scales covered by the workmen, Indian Airlines, has been divided into four regions viz. Northern region, Southern region, Western region and Eastern region and the standard force is determined region-wise and promotions are affected region-wise on the basis of regional seniority. The claim of the workmen seeking automatic promotion on obtaining four approvals, is, thus, contested by the management.

8. The parties have relied on departmental circulars as well oral evidence. It is not disputed that the workmen have obtained four approval on different dates as set out earlier. However, the categorical case of the management, is, that there are no vacancies in the scale of Rs. 910—1700 revised to Rs. 2005—2965 and so, the workmen could not be sent before selection board nor given appointments. However, they are being paid special allowance as admissible under rules.

9. With a view to substantiate this submission, the management relied on Circular No. FIN/Rules/2006/933

dated 13-10-88, which prescribe rate of incentive allowance on getting approvals. This circular is binding on all the workmen. It mentions that higher scales are admissible on availability of vacancies. By letter No. D/Ed/88/362 dated 22-9-88, the management of Indian Airlines clarified that under existing rules, the promotion of welders to the post mentioned at 7/8 and 9, is subject to availability of vacancies as per standard force and not acquiring approvals.

10. Circular No. PLM; PS; RECTT; Interview; 9795 dated 14-12-1987 clarifies that seniority and promotion would be in accordance to the sanctioned strength of the cadre. In none of the documents, it is provided that on getting four approvals the workmen would be automatically entitled to promotion in higher grades. The concerned workmen are members of the Indian Airlines Technican Association (hereinafter for gravity IATA) which is recognised employees union. This union declined to espouse the cause of the workmen as the demand was unjustified. It is stated that as per the rules the post of Aircraft Technican (Welder) in the scale of Rs. 2005—2965 (revised) on which the workmen seek promotion, are to be filled by selection. Promotion on such post is made on approval by selection board which is constituted on availability of vacancies. At present there are no vacancy in the said post or in the said scale of Rs. 2005-2965. A promotion can not claim as a matter of right only on obtaining four approvals.

11. Thus, the controversy between the contesting parties, is, whether the workmen are entitled to automatic promotion in the higher scale aforementioned only on obtaining four approvals. The workmen claim automatic promotion/upgradation on promotion on the principle of 'equal pay for equal work', whereas the management disputes their claim of automatic entitlement to higher scale of pay as the settlements with the union as well the rules do not permit such promotion unless there exist vacancies and they are selected by the selection board.

12. The settlements in between the representative union and the management bind the parties, including the workmen. Such settlements are laws for purposes of service conditions and none of the parties i.e. workmen or the management can not have authority to commit breach. The settlements with IATA are equally binding on the workmen. These settlements, undisputedly, do not cast obligation on the management to promote the workmen unless they are selected against existing vacancies. It is not disputed there were no vacancies on the date, this dispute arose. No doubt, the workman obtained four approvals, but by obtaining these approvals they became entitled to incentives in shape of special allowance and not of higher grade posts or pay. They became simply eligible for consideration for higher posts or grades on obtaining four approvals. Their claim of being automatically entitled to old scale of Rs. 910—1700 is not tenable.

13. The percentage of promotions etc. were settled by the parties and enforced in Indian Airlines. The workmen relied on recommendation of Khosla Award which provided equation in scales of Indian Airlines and Air India. This submission is totally misconceived. Further, such recommendations stood superseded by the subsequent settlements between the representative union and management of Indian Airlines.

14. The principle of equal pay for equal work is not applicable in cases whereas scales of pay and posts are created by settlements having force of law. The service conditions including scales of pay and procedure of selection etc. are part of the settlements arrived between the parties and so, the workmen's claim on basis of doctrine equal pay for equal work is not tenable. For same type of works, different scales based on experience etc. are permissible.

15. Thus, in light of discussions above, the workmen were not entitled to scale of Rs. 910—1700 on obtaining four approvals. The reference is adjudicated against them. They are not entitled to any relief.

16. Award as above.

RUDRESH KUMAR, Presiding Officer

LUCKNOW

4-2-2003

नई दिल्ली, 10 फरवरी, 2003

का. आ. 797.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन रेयर अर्थस लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 76/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-02-2003 को प्राप्त हुआ था।

[सं. एल-29012/4/2002-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 10th February, 2003

S.O. 797.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 76/2002) of the Central Government Industrial-Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Rare Earths Ltd. and their workman, which was received by the Central Government on 10-02-2003.

[No. L-29012/4/2002-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 7th January, 2003

PRESENT

K. KARTHIKEYAN : Presiding Officer

Industrial Dispute No. 76/2002

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri S. Ramachandran and the Management of Indian Rare Earths Ltd., Manavalakurichi.]

BETWEEN

Sri S. Ramachandran : I Party/Workman

AND

The Executive Director, : II Party/Management
 Indian Rare Earths Ltd.,
 Manavalakurichi.

APPEARANCE

For the Workman : Unrepresented

For the Management : M/s. S. Ramasubramaniam
 & Associates, Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-29012/4/2002/IR(M) dated 05-08-2002.

On receipt of the order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No. 76/2002 and notices were sent to the parties to the dispute by registered post, with a direction to appear before this Tribunal on 5-9-2002 to file their respective Claim Statement and Counter Statement and to prosecute this case further.

As the notice sent to the I party returned unserved, fresh notice was ordered to the I Party for the hearing 7-10-2002. The II Party/Management entered appearance through their counsel. Though the notice sent by registered post was served on the I Party for the hearing 7-10-2002 and the postal acknowledgement has been received by this Tribunal the I Party/Petitioner was not turned up and filed the Claim Statement on 7-10-2002. He was called absent. then the matter was adjourned to 21-10-2002 and then to 5-11-2002 extending time for the I Party/Petitioner to file his Claim Statement. As there was no representation for the I Party/Petitioner for 5-11-2002, and no Claim Statement of the I Party was filed, the case was adjourned to 20-11-2002 directing the II Party/Management to file their statement of objection if any, for the referred dispute raised by the I Party/Petitioner. After granting time

twice, the II Party/Management filed their statement of objection with a copy of the Petition filed by the Petitioner earlier before the Assistant Labour Commissioner (Central) on 4-10-2002. After hearing the counsel for the II Party/Management orders were reserved to pass the award on merits with the available materials on record.

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of Indian Rare Earths Ltd. in terminating the services of Sri S. Ramachandran is justified? If not to what relief the workman is entitled?”

2. In the absence of the claim statement for the I Party/Petitioner for the referred dispute raised by him earlier as an industrial dispute before the conciliating authority, the copy of the petition filed under section 2A of Industrial Disputes Act, 1947 earlier before the Assistant Labour Commissioner (Central), Madurai which has been filed by the Respondent now has been taken as the claim of the petition in respect of the present referred industrial dispute.

3. The averments in that petition made by the Petitioner are briefly as follows :—

The Petitioner was appointed as Dredge Operator ‘A’ by an order dated 29-7-97 and he continued in service till 28-9-98 without any break. During his service, he was regular and punctual and loyal in his attendance and he never absented from duty. He has taken his eligible leave only with prior information and with the permission of his superiors. The Petitioner received a telephone message on 28-9-98 from his family who are residing in his native place stating that a very critical family problem has arisen and without his presence, it cannot be solved. So, the Petitioner started immediately to go to his native place Dharmapuri. Due to hurry burry and tension, he was not able to inform his superiors regarding his leaving for his native place immediately. He thought that he may return to join duty within one or two days. Because of his long journey and family worries he fell ill and was hospitalised. However, he informed the Respondent/Management by a telegram dated 8.10.98 regarding his inability to attend duty. In the meantime, he shifted his residence 50 Kms away from his original address due to his family problems. Due to family problems and some land dispute with his relatives all the letters came to his original address were hidden and destroyed by his relatives with personal vengeance. The Petitioner came to know this fact only later. So he could not receive and gave any reply to the alleged telegram of the Respondent/Management dated 20.10.98 and also to the letters of

the Respondent. However, the Petitioner received one letter dated 18-11-98 directing him to report for duty immediately. The Petitioner sent a reply to the Respondent/Management informing them about his inability to join duty immediately. The Petitioner received a charge memo dated 4-12-98 alleging that the charges coming under sub-clauses 13, 21, 29 of Clause 41 of Company's Standing Orders calling upon him to submit his explanation. The Petitioner sent his written explanation dated 9-12-98 for the alleged charges and requested the management to give him permission to join duty. He further submitted the medical fitness certificate dated 5-3-99 to the Respondent/Management along with the covering letter on 7-3-99 requesting the Respondent/Management to give him permission to join duty. This request was not considered by the Respondent/Management. In spite of his repeated requests in person also, the Respondent/Management has not permitted the Petitioner by giving an order to join duty. In these circumstances, the Petitioner received a letter along with an enquiry report dated 12-4-99 with some perverse findings of the Enquiry Officer. The alleged enquiry was conducted against all accepted norms of natural justice. The Petitioner never got any information regarding the fixing up of departmental enquiry on the alleged charges on the date of hearing. Hence, the Petitioner could not attend the said enquiry and he could not prove his innocence. The capital punishment of dismissal of service imposed on the Petitioner is unjustified, illegal and against all accepted principles of natural justice. In spite of the representation made by the Petitioner through his letter dated 14-10-99, the Respondent/Management refused to concede the request of the Petitioner to set aside the termination order and hence, he prepared a petition for conciliation.

4. The averments in the statement of objection filed by the II Party/Management Indian Rare Earths Ltd. (hereinafter refers to as Respondent) are briefly as follows :—

The Respondent is Government of India undertaking functioning under the Department of Atomic Energy dealing in mining and beneficiation of minerals. It has a plant at Manavalakurichi covered under the Mines Act. This plant is engaged in mining and processing of raw sand containing Ilmenite, rutile, zircon, monazite and garnet. The Industrial Dispute raised by the Petitioner is wholly vexatious and is not maintainable either in law or on facts. The Petitioner was appointed as Dredge Operator A in the Respondent establishment initially on probation w.e.f. 15-12-97. The superiors of the Petitioner reported that from 29-9-98 during the probationary period of the Petitioner he was absent from duty

without intimation or sanction of leave. Accordingly, the matter was reported to the higher authorities and a telegram was sent on 20-10-98 to the Petitioner's residential address at Manavalakurichi as furnished by him to the Respondent/Management and as available in service record as well as to his residential address at his native place namely Dharmapuri. The Telegram which was sent to Petitioner's local address at Manavalakurichi was returned unserved by the postal authorities with remarks "person left, present address not known". Thereafter a registered letter dated 18-11-98 was sent to Petitioner's local address as well as to his permanent address at Dharmapuri directing him to report for work. However, the registered letter sent to his local address at Manavalakurichi was returned by postal authorities as undelivered. The said letter dated 18-11-98 sent to Petitioner's permanent address was acknowledged by him. In spite of the same, the Petitioner neither sent any reply nor informed the reason as to why he was absent unauthorisedly from 29-9-98. The continued absence of the Petitioner has seriously affected the operation of Dredge in the shifts. A charge memo dated 4-12-98 was sent to him by registered post inter-alia stating that his unauthorised absence from 29-9-98 are acts of commission and omission on his part as per sub clauses 13, 21, 29 and 30 of Clause 41 of Certified Standing Orders of the company was applicable to the Petitioner. The Petitioner had acknowledged the charge memo dated 4-12-98 which was sent by registered post through a letter dated 9-12-98. The Petitioner informed the Respondent/Management that he has received the letters and memos and he was not mentally in a position to join duty and that he had some family problems etc. without substantiating the same and the reasons therefor. Having found the explanation of the Petitioner unsatisfactory, and the Petitioner also has not reported for duty, it was decided to conduct a domestic enquiry. Accordingly, an Enquiry Officer was appointed and the same was duly intimated to the Petitioner by a registered letter dated 26-12-98. In spite of the Petitioner was intimated about the enquiry to his given address, he did not turn up for enquiry. In addition to that the date of final enquiry was published in Dina Malar the Tamil news daily on 29-2-99 informing in that notice that the previous enquiry notices sent by registered post to the Petitioner were returned unserved with the postal remark continuously absent. The Enquiry Officer gave the Petitioner ample opportunity to defend his case by appearing for an enquiry. As per the final enquiry notice published in the news paper, the enquiry was fixed on 5-3-99. On that day also the Petitioner did not turn up. Hence, the Enquiry Officer conducted the enquiry in the absence of the

Petitioner. The management by examining the witnesses in the enquiry, substantiated the charges by submitting documentary evidence also. The enquiry was conducted in accordance with the principles of natural justice. On the basis of the oral and documentary evidence, the Enquiry Officer submitted his report dated 29-3-99 with his finding that all the charges levelled against the Petitioner have been proved and the Petitioner was found guilty. Thereafter, the Disciplinary Authority considered the enquiry report and concurred with the findings of the Enquiry Officer. A show cause memo dated 12-4-99 along with the copy of Enquiry Officer's report to the Petitioner for his comments if any. The Respondent did not receive any reply from the Petitioner. As the Petitioner had indulged in a serious act of misconduct namely unauthorised absence without any information, notice or prior permission from his superiors continuously w.e.f. 29-9-98, and he did not offer any satisfactory explanation in spite of repeated letters from the Respondent/Management, it was decided in the interest of discipline that the Petitioner's services need not be continued with the Respondent/Management. Accordingly, the Petitioner was issued with an office order dated 26-4-99 terminating his services with immediate effect i.e. from 26-4-99. Copy of termination order was sent by registered post to his last known address as intimated by him and available as per service records. The Petitioner subsequently represented to the Respondent/Management by letters dated 13-9-99 and 14-10-99 after a long gap of five months that his case may be considered favourably for reinstatement and that he may be permitted to join duties as Dredge Operator as per appointment order. In both the letters, the Petitioner has admitted his guilt that he did not reply to any of the Respondent/Management's letters nor did he participate in the enquiry. The management was not in a position to consider the Petitioner's family problem. The contention of the Petitioner that he went on leave from 29-9-98 is not correct, as no such leave application was submitted by him. He left the work spot and remained absent continuously from 29-9-98 without proper authority or sanction of leave. He should have intimated his residential address to the company and change of address, if any as per rules and regulations applicable to him. He has not intimated the company about the change of residence when he left Manavalakurichi as well as the change of permanent residence. However, the Petitioner did receive the letter sent to his address at his native place. All the above combined together resulted in the uncontroverted conclusion that the Petitioner remained unauthorisedly absent w.e.f. 29-9-98 without any permission or sanction of leave

and he has also not submitted any leave application. The commission and omission on his part are serious misconducts as per provision of certified Standing Orders of Respondent/Management applicable to him. The charges levelled against him were proved in the enquiry. On the basis of the proved charges appropriate decision was taken by the Disciplinary Authority to terminate the Petitioner's services. The Petitioner had put in only 9 months of service in the organisation in his probationary period. The absence of the Petitioner even during the probationary period and the punishment awarded after conducting domestic enquiry shows the action of the management against the Petitioner is correct in the interest of discipline of the organisation. Hence, the dispute raised by the Petitioner does not warrant any consideration. The action of the management in terminating the services of the Petitioner is justified, legal and in accordance with the principles of natural justice. Since the Petitioner has not filed even the Claim Statement, before this Tribunal even after five hearings, the dispute may be dismissed with cost.

5. After filing the statement of objection by the Respondent/Management through their counsel, the argument advanced by the learned counsel was heard and orders were reserved to pass an award on merits, with the available materials on record.

6. The point for my consideration is -

"Whether the action of the management of Indian Rare Earths Ltd. in terminating the services of Sri S. Ramachandran is justified? If not to what relief the workman is entitled?"

Point :—

Though this industrial dispute has been raised by the Petitioner/Workman Sri S. Ramachandran against the Respondent/Management of Indian Rare Earths Ltd. earlier before the Assistant Labour Commissioner (Central) Madurai, challenging the action of the Respondent/Management in imposing the punishment of dismissal of service against him as unjustified and illegal and on the basis of the failure of conciliation initiated by the Assistant Labour Commissioner (Central) Madurai, the matter has been referred to this Tribunal as an industrial dispute for adjudication and due notices were served on the Petitioner to prosecute this case before this Tribunal for the relief he claimed against the Respondent/Management, he has not chosen to appear before this Tribunal by filing Claim Statement and by prosecuting this case. Even in the absence of the Petitioner to decide the matter on merits, the Tribunal has considered the plea of the Petitioner he raised earlier before the conciliating authority through his petition under Section 2A of Industrial Disputes Act, 1947. The copy of the same has been filed here by the

Respondent/Management along with the contention of the Respondent/Management in their statement of objection filed before this Tribunal. From the materials available in this case, it is seen that the Petitioner was engaged by the Respondent/Management as a Dredge Operator 'A' in their establishment initially on probation w.e.f. 15-12-97 and he worked in the Respondent establishment till 28-9-98 and he had not reported for duty from 29-9-98 and had remained absent for duty without intimation or sanction of leave. From the plea of the Petitioner available in his earlier 2A petition, it is seen that he received one letter dated 18-11-98 from the Respondent/Management directing him to attend the duty immediately. But it is his contention that he sent a reply to the said letter informing the Respondent/Management that he was not in a position to join duty immediately. But in the statement of objection, the Respondent/Management has specifically averred that though the Petitioner has acknowledged the receipt of letter dated 18-11-98 he has not sent any reply nor informed the reasons as to why he was absent unauthorisedly from 29-9-98. So it is for the Petitioner to prove that he has promptly replied the Respondent/Management for their letter dated 18-11-98 informing the reason as to why he was absent for duty from 29-9-98. That aspect has not been proved by the Petitioner before this Tribunal, in spite of the fact that sufficient opportunity has been given to him.

7. It is admitted by the Petitioner himself in his earlier petition that the charge memo was issued to him by the Respondent/Management for his unauthorised absence and he was called upon to submit his written explanation. It is admitted that the Petitioner has sent a reply to the charge memo. It is contended by the Petitioner in his petition that he submitted the medical fitness certificate dated 5-3-99 to the Respondent/Management along with a covering letter on 7-3-99 requesting the Respondent/Management to give him permission to join duty. But his request was not considered by the Respondent/Management. The Respondent/Management in their statement of objection has admitted that the Petitioner has sent two letters dated 13-9-99 and 14-10-99 after a long gap of five months that his case may be considered favourably for reinstatement and he may be permitted to join as Dredge Operator as per appointment order and that in both the letters he had admitted his guilt that he did not reply to any of the management letters, nor did he participate in the enquiry. It is admitted by the Petitioner that an enquiry was conducted for the charges levelled against him in the charge memo, but he would contend that the enquiry was conducted without his knowledge, so he could not attend the said enquiry on the fixed dates of enquiry. As the Petitioner has not turned up for enquiry on the fixed date of enquiry by the Enquiry Officer, a paper publication has been given by the Respondent/Management as a notice to the Petitioner to attend enquiry, fixed finally on 5-3-99. Even

for that the Petitioner has not come back and the enquiry was conducted ex-parte and on the basis of oral and documentary evidence given by the management before the Enquiry Officer, he has given his finding that the charges levelled against the Petitioner has been proved and on the basis of the findings of the Enquiry Officer, the Disciplinary Authority has passed the order after giving an opportunity to the Petitioner by furnishing the copy of the report of the Enquiry Officer to submit his comments. For that also, the Petitioner has not sent any reply to the Respondent/Management. The Petitioner has admitted in his petition filed earlier before the conciliating authority that he received a letter from the Respondent/Management with the enquiry report, he has not stated in that petition that he ever sent any reply to that Disciplinary Authority's letter calling upon to submit his comments on the Enquiry Officer's report. Hence, on the basis of the findings of the Enquiry Officer in his report, the Disciplinary Authority had passed his final order dated 26-4-99 terminating the Petitioner from his services w.e.f. 26-4-99 and the same has been communicated to the Petitioner by registered post. It is seen from the Petitioner's contention that he sent a letter dated 14-10-99 to the Respondent/Management and requested the Respondent/Management to set aside the order of termination of his service. That he has sent after six months as alleged by the Respondent/Management in their statement of objection. It is the specific contention of the Respondent/Management in the statement of objection that in the letters sent belatedly by the Petitioner dated 13-9-99 and 14-10-99, the Petitioner has admitted his guilt that he did not reply to any of the management's letters nor did he participate in the enquiry. It has not been denied or disputed. Further, the Petitioner has not chosen to appear before this Tribunal to substantiate his stand that the action of the Respondent/Management of Indian Rare Earths Ltd. in terminating his services as unjustified. He has not come forward to establish his case before this Tribunal by let in any acceptable evidence to prove that he had sufficient grounds for his absence from duty and he has got satisfactory explanation and reasons for his continued absence for duty. It is not disputed that he was absented from duty from 29-9-98 without submitting any leave application and without proper authority or sanction of leave. Under such circumstances, it was concluded by the Respondent/Management that the Petitioner remained unauthorisedly absent w.e.f. 29-9-1998 without any permission or sanction of leave and he has also not submitted any leave application and it amounts to a serious misconduct as per the provisions of Certified Standing Orders of the Respondent/Management applicable to him. It is seen from the materials available in this case that the same has been levelled as charges against the Petitioner has been established in the enquiry conducted ex-parte and on that basis, the Enquiry Officer has given his finding that the charges levelled against the Petitioner has been proved, hence on the basis of the findings of the Enquiry

Officer, after giving an opportunity to the Petitioner by furnishing the Enquiry Officer's report and calling upon the Petitioner's comments for the same, the Disciplinary Authority, having found the Petitioner has not submitted any comments, has passed the final order by imposing the punishment against the Petitioner by terminating him from the services by an order dated 26-12-99 with immediate effect. All these things go to show that the action of the management of Indian Rare Earths Ltd. in terminating the services of the concerned workman Sri S. Ramachandran is justified and hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

8. In the result, an Award is passed, on merits, holding that the concerned workman Sri S. Ramachandran is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 7th January, 2003.)

K. KARHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Marked :—

On either side : Nil

नई दिल्ली, 10 फरवरी, 2003

का. आ. 798.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंटरनेशनल एयरपोर्ट ऑथोरिटी ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 57/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-2-2003 को प्राप्त हुआ था।

[सं. एल-11011/10/87-डी-II(बी)-आई आर (विविध)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 10th February, 2003

S.O. 798.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 57/2002) of the Central Government Industrial-Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of International Air Port Authority of India and their workman, which was received by the Central Government on 10-2-2003.

[No. L-11011/10/87-DII(B)-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Present :

RUDRESH KUMAR : Presiding Officer

I.D. No. 57/2002

(Delhi No. 106/88)

Ref. No. L-11011/10/87.D.II(B)/D-III(B) dated 27-9-87

BETWEEN

The General Secretary, International Airport Authority
Emp. Union, I.A.F. Old Mess Barracks I.G.I. Airport,
New Delhi

AND

The Chairman and Managing Director, I.A.A.I.
Yashwant Place, Chanakya Puri, New Delhi.

AWARD

By order No. L-11011/10/87.D.II(B)/D.III(B) dated 27-9-87, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section(1) and sub-section (2A) of Section 10 of the I.D. Act, 1947 (14 of 1947) referred this industrial dispute between the General Secretary, International Airport Authority Emp. Union, I.A.F. Old Mess Barracks, I.G.I. Airport, New Delhi and the Chairman and Managing Director, I.A.A.I. Yashwant Place, Chanakya Puri, New Delhi for adjudication to CGIT-cum-Labour Court, New Delhi. Later, vide order No. Z-20025/54/2001-CLS-II dated 19-4-2002, this case was transferred to this tribunal for adjudication.

The reference under adjudication is as under :

"Whether the action of the International Airport Authority of India in terminating the services of 114 Employees of N.I.T.C. Project (As detailed in Annexure) w.e.f. 1-6-86/1-7-86 is legal and justified. If not, to what relief these workmen are entitled?"

2. The representative union viz. International Airport Authority Employees Union, through its General Secretary has raised this industrial dispute, espousing cause of 114 employees of NITC project, impugning their termination w.e.f. 1-6-86/1-7-86. Accompanying annexure gave names of the 114 workmen. During the course of proceeding one of the workman, Jaswant, died and on his place, his widow Bela Devi was substituted vide order dated 18-9-2002.

3. Briefly put : the case of the workmen, is that they were appointed with the I.A.A. in its NITC project w.e.f. from various dates shown against their names in the claim statement. Allegedly, the management terminated their services by way of retrenchment, in violation of Section 25-F of the I.D. Act, 1947 and Rule 76 of the I.D. Central

Rules, 1957, as no notice on from (P) was ever served by the management to the competent authority as per Rules 76, 77 and 78. The act being illegal and unjustified, the workman are entitled to reinstatement with full back wages and continuity in service. It is alleged that the management acted with ulterior motive to get work done through some contractor, presently, taking works through the contractors. A number of allegations have been made which are not very material for determination of entitlements to the workmen.

4. The management filed written statement contesting claim of the workmen. It stated that union raised dispute before the ALC(C) espousing cause of 88 persons only. During the course of conciliation preceding it added another 19 persons to the said list bringing total 107. Subsequently, another 7 names were added bringing total to 114. The appropriate government referred the matter to this Tribunal for adjudication of all the 114 persons in the terms as set out in the order of reference.

5. The management has set out the facts stating that in or about 1981, it took the project of construction of the New International Airport Terminal (hereinafter referred to as NITC). The workmen of the said project were under the charge of a Chief Engineer with 3 Supdt. Engineer and 9 Executive Engineers. The work was got executed through contractors. However, for the execution of the said project which required supervision and other contributions, some daily waged persons, technical supervisors/khalasi/beldar etc. belonging to class IV and other categories were required. Since Feb. 1981, these daily waged workmen were employed by the Chief Engineer/Project Director of the said project as and when requirement so arose. The services of these daily waged workmen were on purely temporary basis for there were no regular posts with it and these persons were employed only and specifically for the purposes of NITC project. No letter of appointment was ever issued to them by the Chief Engineer. Till May 1986, Chief Engineer/Project Director of the NITC project had at one time or other, appointed as many as 681 daily waged workmen for different works. The present workmen who have approached to this tribunal are few amongsts the aforesaid daily waged workmen who had worked towards the completion of the project. Major portion of the project was completed in or about May, 1986 and the Indira Gandhi International Airport Terminal was commissioned. For the purposes of operation and maintenance of the Indira Gandhi International Airport as many as 133 post in class 4 category were created. In addition there were existing vacancies and some more posts became available because of the retirement/resignation etc. In all, there were 190 regular class IV posts which were filled up between June, 1985 and May, 1986. For filling of these posts such daily waged workmen were considered from time to time who had completed 240 days continuous service subject to their qualification. Lastly, applications were invited on March 11/12, 1986 from

amongst daily waged workmen, who had completed 240 days continuous service and fulfilled the job specifications laid down for the respective post. In between the period of June, 1985 and May, 1986 as many 132 daily waged workmen and class IV category were provided regular employment. Six daily waged workmen who possess higher qualifications were inducted in class III. In this way 138 daily waged were provided regular appointments in class III and IV depending upon their suitability. Remaining posts were to be filled up from the promotional qualification of physically handicapped, SC/ST, Ex-servicemen and other reserved categories. The management was unable to absorb all and every workmen who had completed 240 days after available regular posts were filled up.

6. For sake of convenience list of the workmen as given in the statement of claim with particulars are given hereunder :—

Sl. No.	Name	Date of appointment	Date of termination
1	2	3	4
1.	Puran Chand	1-1-1985	1-7-86
2.	Satish Kumar	1-6-1985	
3.	Lakhi Ram	1-2-1983	
4.	Jai Singh	1-10-1985	1-7-86
5.	Ram Bhaj	29-5-1985	
6.	Ram Singh	27-6-1985	
7.	Manorath	27-6-1985	
8.	Suraj	27-6-1985	
9.	Subey Singh	27-6-1985	1-7-86
10.	Krishan Chand	27-6-1985	
11.	Ranwat	28-6-1985	
12.	Jai Bhagwan	27-6-1985	
13.	Rajinder Kumar	27-6-1985	
14.	Hukam Chand	29-6-1985	
15.	Mahaveer	2-7-1985	
16.	Jaswant	3-7-1985	
17.	Hoi Chand	3-7-1985	
18.	Mohinder	5-7-1985	
19.	Ram Chander	3-7-1985	1-7-1986
20.	Munna Khan	17-7-1985	
21.	Suresh Kr. Kaushik	10-7-1985	
22.	Suresh Kumar	25-7-1985	
23.	Gopal Singh	1-8-1985	
24.	Vinod Kumar	1-8-1985	
25.	Praveen Kumar	1-8-1985	
26.	Kishan Chand	1-8-1985	
27.	Rakesh Kumar	2-8-1985	
28.	Dharambir Singh	20-8-1985	
29.	Rajbir Singh	3-9-1985	

Sl. No.	Name	Date of appointment	Date of termination	Sl. No.	Name	Date of appointment	Date of termination
1	2	3	4	1	2	3	4
30.	Ishwar Singh	3-9-1985		73.	Ashok Kumar	—	
31.	Dalal Singh	4-9-1985		74.	Braham Prakash	1-11-1985	
32.	Surinder Kashyap	3-9-1985		75.	Mahender Singh	—	
33.	Rajinder Singh	10-9-1985		76.	Gyan Chand	1-11-1985	
34.	Naresh Kumar	11-9-1985		77.	Ram Singh	24-10-1985	
35.	Surinder Joon	18-9-1985		78.	Shamal Chakaraverty	16-9-1985	
36.	Hawa Singh	19-9-1985		79.	Mahinder	24-10-1985	
37.	Chahan Pal			80.	Ranbir	7-10-1985	
38.	Bali Ram	23-9-1985		81.	Nem Prakash	9-10-1985	
39.	Rishi Raj Sharma	9-4-1985		82.	Verender	—	
40.	Mahinder Singh	12-8-1985		83.	Dharam Singh	—	
41.	Darcharan	26-6-1985		84.	Pradatt Kr. Day	—	
42.	Damodar Joshi	8-10-1985		85.	Gyanendar Singh	—	
43.	Paras Nath Pathak	16-9-1985		86.	Gangaram	11-2-1986	
44.	Sohan Lal Saini	20-9-1985		87.	S.M. Vismakshi	—	
45.	Satveer Singh	—		88.	Bhagwan Din	—	
46.	Pitamber Morya	1-8-1985		89.	Alguram Yadav	—	
47.	Vinod Kr. Sharma	1-8-1985		90.	Radharaman	9-11-1985	
48.	Jitender	1-8-1985		91.	Satpal Singh	—	
49.	Hakim Singh	7-8-1985		92.	Jagdish	13-5-1982	31-5-1986
50.	Shyam Sher	2-9-1985		93.	Bhuvan Chand	1-11-1985	
51.	Narain Singh	6-9-1985		94.	Mukesh	10-11-1985	
52.	Kapoor Singh	1-8-1985		95.	Rajinder Kumar	—	
53.	Nam Chand	—		96.	Nathu Singh	4-11-1985	30-4-1986
54.	Ushan Singh	8-9-1985		97.	Babu Lal		
55.	Attar Singh	13-9-1985		98.	Naresh Lal		
56.	Harbans Lal	16-9-1985		99.	Ved Singh		
57.	Surender Kr. Sherawat	18-9-1985		100.	Vijender Singh		
58.	Sukhbir Dutt	3-10-1985		101.	Inderjeet Singh		
59.	Krishan Pal	3-10-1985		102.	Mahinder		
60.	Dilbagh	5-11-1985		103.	Rajinder	4-9-1985	1-6-1986
61.	Sunhari Lal	20-10-1985		104.	Shamal Dutta	1-11-1985	1-6-1986
62.	Bresham Singh Yadav	1-11-1985		105.	Kuljeet Singh	1-9-1986	30-11-1985
63.	Narain Samutra	26-10-1985		106.	Shiv Charan	1-9-1985	1-6-1986
64.	Lal Singh	23-10-1985		107.	Anil	1-3-1986	1-6-1986
65.	Shri Bhagwan	1-11-1985	1-7-1986	108.	Anil Kumar	17-1-1985	31-5-1985
66.	Surender Pal	1-11-1985		109.	Azad Singh	1-10-1985	1-6-1986
67.	Omi Prakash	18-11-1985		110.	Kishor Kumar	1-10-1985	1-6-1986
68.	Sunder Lal	15-10-1985		111.	Raj Singh	8-11-1985	1-6-1986
69.	Satbir Singh	—		112.	Inder Jeet	—	—
70.	Jasbir	—		113.	Ranvir Singh	11-8-1985	1-6-1986
71.	Kailash Chand Bhatti	9-10-1985		114.	Mukesh	6-11-1985	1-6-1986
72.	Dinesh Prasad	1-11-1985					

7. A number of daily waged workmen approached Hon'ble Supreme Court and 4 writ petition are pending there. Some of the daily waged workmen approached the Delhi High Court and filed writ petitions No. 2060/87 Kishan Prasad Vs. Union of India and others. Also, a number of persons raised industrial dispute through their union.

8. The management disputed list supplied by the workmen, stating as not correct, in certain particulars regarding the date of appointment and date of alleged termination, mentioned therein. The date of engagement and disengagement is matter of record. It was pointed out that out of 98 workmen, Sl. No. 41 Sohan Singh was included subsequently. The workmen shown at Sl. Nos. 2 of the list was working and there was no termination. Likewise, the names shown at Sl. No. 79 and 80 could not be traced in the file of the management. The management has stated that work was not of permanent nature and had since been completed. The workman were engaged between 1985 and 1986 because of the construction activities which were completed. It is denied that the management committed breach of section 25-F of the I.D. Act, 1947. Rather, it justifies its action stating that the workmen were employed on daily wages on specific condition of service that their service would be engaged on day to day basis depending upon the exigencies of work and notice for their disengagement would not be required. It is denied that disengagements of the workmen amount to retrenchment. The management further denies that the workmen were engaged specifically for horticulture work and their services were terminated to be assigned these works to contractor. There is no co-relation between introducing contract system for horticulture and discontinuing the services of the workmen. The management also denies any decision of the Madras High Court as the writ petition is still pending. Other allegations of ignoring seniority and allegations regarding pick and choose policy in regularising some workmen by the management, is denied.

9. The workmen reiterated the facts refuting facts given in written statement in their re-joinder.

10. In conciliation proceeding, the management admitted that no compensation was paid to any of the workmen agreed that those employees who had completed 240 days will be given compensation as per the provision of law i.e. I.D. Act, 1947. The management also agreed that awarding the work to the contractor in horticulture is policy decision to award such works to contractor and not to get the job done departmentally. The management agreed that the provisions of section 25-N was not complied with.

11. Both the parties relied on oral and documentary evidence. The workmen filed affidavit of 66 workmen only, beside affidavit of R.K. Yadav, Secretary, International Airport Authority Emp. Union. The management filed affidavit of H.S. Bains which was later substituted by J.A. Kumar as H. S. Bains proceeded to U.K. and was not expected to return early. Both the parties in their respective

affidavits reiterated their stands taken in statement of claim and defence.

12. Before adverting to discuss merit of the case, it appears appropriate and expedient to have glance over the order dated 6-9-90 of the Hon'ble Supreme Court, in W.P. No. 1174/96 Jitendra Kumar Vs. Union of India and others. This decision also covers W.P. No. 1454/86 civil appeal No. 545—644 of 1984 and SLP (C) No. 11659 of 89 and C.M.P. No. 9732-33/89 (in C.A. No. 545 and 644 of 1987). In these petitions and appeals, in all 148 employees as casual labourers, in the International Airport Authority at Delhi were involved. They had impugned their retrenchment before the Hon'ble Supreme Court. Mr. Kapil Sibbal, Additional Solicitor General, representing International Airport Authority had agreed before the court, that in respect of the vacancies such of the petitioners who qualify appointment shall be provided and thereupon they will become regular employees. The court on the basis of the said statement, made clear that age bar shall be condoned and length of service rendered by the petitioner/workmen would be condoned. During the hearing, the learned counsel appearing for the petitioners contended that contrary to the provision of the Contract Labour (Abolition and Regulation) Act, work has been provided to the contractor and the contractor have employed persons other than petitioners. The court did not enter into merit of this argument as all persons engaged through the contractor were likely to be disengaged. However, it directed all similarly placed persons would be assigned duties through the contractors on priority basis and a condition to that effect would be enforced on the contractors. In effect, the Hon'ble Supreme Court, not only provided relief to the petitioners but all similarly placed workers that in the event they are not absorbed immediately, they may continue to work through the contractors. The management failed to produce any material to show faithful compliances of the order of the Supreme Court in regularisation or providing work through the contractors.

13. That 114 workmen shown in the statement of claim and reference were amongst the workers employed with the Airport Authority of India in NITC project. They continuously worked from their respective date of appointment shown against their names in the statement of claim till they were disengaged, the management did not have any seniority list to be submitted before the court to ascertain actual period of working, as per order of the Supreme Court and assurance of their Learned Counsel in W.P. No. 1174/86, no condition was imposed in agreement with the contractor to keep the workers on priority basis and none of the contesting workmen were assigned work through the contractor and so, they are all unemployed except those regularised.

14. The management by letter No. AAD/PERS/RC/1080/2003 dated Jan. 17, 2003 submitted a list of workers categorising their absorption etc. Para 3 of this letter signed

by J.K. Goel, Sr. Personnel Manager shows that 37 of the workmen have already been regularised, 13 are in different panels for regularisation. They are part of the 114 workmen shown in the annexure of reference. Also 57 of the workmen did not get themselves regularised and 07 failed or absented. This letter and list was submitted at the time of final argument on 30-1-2003 in compliance of earlier order passed by the court.

15. The Authorised Representative of the workmen agreed that those of the workmen already regularised are no longer interested in pursuing this case and no claim award may also be passed against them. However, it was pointed out that the management regularised services of those workmen also who had not worked for 240 days in total. A pick and choose policy was adopted.

16. On exclusion of those of the workmen who did not contest by filing their affidavit and also those who were already regularised only the cases of workmen shown at Serial Nos I, 4, 11, 12, 14, 15, 16, 19, 24, 26, 27, 28, 36, 38, 39, 40, 43, 44, 48, 50, 51, 55, 57, 58, 60, 62, 65, 66, 68, 74, 76, 80, 92, 96, 102, 105 and 106 require to be scrutinised on merit. Amongst the above workmen Bresham Singh Yadav (S. No. 62) and Nathu Singh (S. No. 96) are also regularised as informed by the workmen. However, there is no material to substantiate these facts and so, their case is also considered. However, any order of this Tribunal would not be taken to their disadvantage, if they are already in employment. Also, if some other workmen are in employment with IAAI their present status would not be affected by adverse award of this Tribunal.

17. It has already been held that identification of the workmen is no longer in dispute in view of the list submitted by the management and further there being no specific denial in written statement and oral evidence of MW J.A. Prasad. Likewise, the date of appointment of individual workers are given in the statement of claim and also in their respective affidavits. The management has not disputed date of termination i.e. 1-6-1986 and 1-7-1986 as mentioned in the reference order and also in the statement of claim and affidavits. These dates may be taken as correct for calculating working period.

18. The learned A/R IAAI submitted that the management was not provided opportunity to cross examine all the workmen who filed affidavit. Only one workman and Secretary of the union were cross examined. This fact is not disputed. This case is almost 15 years old and cross-examination were made years back. It appears that the management opted to cross examine only one witness as the affidavits are same on cyclostyled papers. Only name, parentage and dates are filled by hand. The management did not apply during all these years to call the workmen for cross-examination and this point is taken at the time of final submission. It appears to be simply an attempt to delay conclusion of the case. The management also did not produce H.S. Bains for cross examination. It is

implied that the management waived its right of cross-examination as there was nothing new for cross-examination and preferred to cross examination only one of the workmen. Even if the oral evidence of the workmen, not produced for cross-examination, be excluded, the merit of the case will not be affected. The identities of the workmen are not disputed. Their date of appointments are noted in the statement of claim which have not been countered by giving any other list by the management. The Secretary of the union who espoused cause of these workmen proved the claim statement and was cross examined. The date of terminations are also not disputed. The management has admitted that none of the workmen were paid retrenchment compensation or were given notice pay as provided under Section 25-F or Section 25-N of the I.D. Act, 1947. In the said background let merit be examined.

19. On calculation of working period only Nathu Singh (96) worked for 176 days, Kuljeet Singh (105) for 91 days and Shiv Charan (106) for 92 days and have not completed 240 days continuous service to be entitled to relief under Section 25-F of the I.D. Act, 1947. In case of Mahendra (102) dates of employment and termination are not given in the statement of claim and so, he cannot be given any relief. All other workmen, viz: Puran Chand, Jai Singh, Ranwat, Jai Bhagwan, Hukum Chand, Mahaveer, Ram Chander, Vinod Kumar, Kishan Chand, Rakesh Kumar, Dharmber Singh, Hawa Singh, Baliram, Rishi Raj Sharma, Mahindra Singh, Paras Nath Pathak, Sohan Lal Saini, Jitendra, Shyam Sher, Narain Singh, Attar Singh, Surendra Kumar Sherawat, Sukhbir Dutt, Dilbagh, Bresham Singh Yadav, Shiv Bhagwan, Surendra Pal, Sunder Lal, Brahm Prakash, Gyan Chand, Ranbir and Jagdish had worked for more than 240 days to bring them in definition of 'Continuous Service' as defined under section 25-B of the I.D. Act and were entitled to notice or notice pay and retrenchment compensation. The management did not comply with the provision of Section 25-F of the said Act and so, the termination of services of these workmen are void ab initio. Accordingly they all are entitled to reinstatement giving them continuity in service in the IAAI. One of the workmen, Jaswant died during the proceeding and his wife Bela Devi was substituted at his place. The deceased Jaswant had also completed 240 days service and his termination was void ab initio. However, he can not be reinstated and his wife is also not entitled to relief of reinstatement as the deceased was a casual labour at the time of termination.

20. This reference is pending adjudication for the last 15 years. The workmen were daily waged employees and must have worked temporarily for subsistence hence to award full back wages is not justified. The management should have provided them work through the contractor but did not honour its commitment given before the Hon'ble Supreme Court. In the given circumstances, the workmen are entitled to 50% of the back wages from the date of their

respective termination. Smt. Bela Devi is also entitled to 50% back wages from date of termination till date of death of Jaswant. The award is as above. In respect of all those did not contest by filing affidavit or were absorbed earlier, a no claim award is given.

Lucknow :

Dated : 3-2-2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 799.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन रेयर अर्थस लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 77/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-02-2003 को प्राप्त हुआ था।

[सं. एल-29011/51/2002-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 11th February, 2003

S.O. 799.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award (Ref. No. 77/2002) of the Central Government Industrial-Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Rare Earths Ltd. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-29011/51/2002-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 7th January, 2003

PRESENT : K. KARTHIKEYAN,
Presiding Officer

INDUSTRIAL DISPUTE No. 77/2002

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman and the Management of Indian Rare Earths Ltd., Manavalakurichi.]

BETWEEN

I.R.E. Technicians & : I Party/Claimant
Other Employees Association

AND

The Executive Director, : II Party/Management
Indian Rare Earths Ltd.,
Manavalakurichi.

APPEARANCE

For the Claimant : Unrepresented
For the Management : M/s. S. Ramasubramaniam
& Associates,
Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-29011/51/2002/IR(M) dated 12-08-2002.

On receipt of the order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No. 77/2002 and notices were sent to the parties to the dispute by registered post, with a direction to appear before this Tribunal on 5-9-2002 to file their respective Claim Statement and Counter Statement and to prosecute this case further.

As the notices sent to the parties by registered post were duly served but the I Party/Union had not entered appearance on the date of first hearing and also on the subsequent hearings, in spite of time has been extended for filing Claim Statement of the I Party/Union. Having found that the I Party/Union has not filed Claim Statement till 5-11-2002, it was recorded as Claim statement not filed and the II Party/Management was directed to file their statement of objection with a copy of the petition filed earlier by the I Party/Union in respect of this dispute before Assistant Labour Commissioner (Central), Chennai for conciliation. Accordingly, II Party/Management has filed statement of objection to the relief claimed by the I Party/Union as it is mentioned in the reference for the industrial dispute for adjudication by this Tribunal, as per the order of the Ministry dated 12-8-2000, they have also filed a copy of the Claim Statement filed by the Petitioner Union earlier before the Assistant Labour Commissioner (Central) Chennai under section 2A of Industrial Disputes Act, 1947. After hearing the counsel for the II Party/Management, order was reserved to pass an award on merits with the available materials and record.

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Government for adjudication by this Tribunal is as follows :—

“Whether suspension of Shri T. Murugesan for two days as punishment is justifiable? If not to what relief he is entitled to?”

2. The brief facts of this dispute are as follows :—

The General Secretary of Indian Rare Earths Technicians and other Employees Association, Manavalakurichi has raised this dispute espousing the cause of the workman Sri T. Murugesan, challenging the action of the II Party/Management of Indian Rare Earths Ltd., Manavalakurichi in awarding the punishment of suspension of two days to the concerned workman as unjustifiable.

3. The concerned workman Sri T. Murugesan while he was working as Tradesman (A/Fitter) had committed certain acts of misconduct and hence he was issued a charge memo dated 27-12-96. It is alleged in the charge memo that on 11-12-96 at about 15.25 hrs. the concerned

workman entered into the cabin of Sri A.V. Rajarathinam, the then Senior Engineer (Production) now Deputy Manager (Production) and abused him and also abused Sri Able Devadhasan, Senior Engineer (Production) using filthy language and thereby he had committed misconduct as per provisions of Clause 41 of Certified Standing Orders of the Respondent/Management applicable to the concerned workman. The concerned workman submitted his explanation denying the charges. As it was found unsatisfactory, an enquiry was ordered and the concerned workman was afforded ample opportunity to defend his case. The Enquiry Officer completed his enquiry on 14-12-99. The concerned workman was given all opportunities throughout the enquiry proceedings to defend his case. The Enquiry Officer scrupulously adhered to the principles of natural justice throughout the enquiry by providing opportunities to the concerned workman to file his documents to peruse the documents filed by the Respondent/Management to cross-examine the management witnesses also to adduce his evidence to defend his case. On completion of the enquiry and after analysing the oral and documentary evidence placed before him in the enquiry, the Enquiry Officer submitted his report on 17-5-2000 giving a finding that the concerned workman was guilty of the three charges levelled against him under Clause 41 of the Company's certified standing orders. On receipt of the enquiry report, the Respondent/management having found the findings of the Enquiry Officer as the charges have been proved against the concerned workman and the charges were grave in nature, issued a 2nd show cause notice to the concerned workman. The concerned workman Sri Murugesan submitted his reply for the 2nd show cause notice which was found to be not satisfactory by the Respondent/Management. Then order was passed by the Disciplinary Authority dated 19-6-2000 imposing the punishment of two days suspension against the concerned workman as a substantive punishment. Against that order of the Disciplinary Authority, the Petitioner Union has raised this dispute challenging the same as unjustified one.

4. It is the contention of the Petitioner Union in their earlier claim stating that the concerned workman Mr. Murugesan was punished for the falsely fabricated allegation. The concerned workman was abused by one officer, namely A.D. Rajarathinam before others inside the company and the concerned workman gave a written complaint to General Manager through proper channel immediately. But the departmental officer wilfully fabricated a counter complaint against the innocent employee and had shown that it had given by the officer prior to the complaint of the employee and only to favouring the officer, the top officials of the Respondent/Management ignored the complaint of the employee and served a charge memo to the employee, based upon the fabricated counter complaint of the officer. In the enquiry, the evidence let in by the concerned workman to examine three witnesses has

not been considered by the Enquiry Officer and also the inconsistency in the evidence given by the management witnesses. Thus the Enquiry Officer erred by giving his biased findings. The management has not produced the complaint given by the concerned workman before the Enquiry Officer. So, the concerned workman has produced the copy of the same and the Enquiry Officer has pointed out that MW1 had abused the concerned workman and gave a finding that three out of the five charges have been proved against the concerned workman. The Enquiry Officer did not take into mind the merits of the concerned workman's witnesses and other documents and thereby he has taken a biased view against the principles of natural justice and the Respondent/Management has also accepted the findings of the Enquiry Officer and imposed the punishment of two days suspension on the concerned workman. It is not a justifiable action of the Management. The appeal made by the concerned workman to the Appellate Authority to cancel the punishment imposed by the Disciplinary Authority was also failed.

5. Though the dispute has been raised by the I Party/ Union on behalf of the concerned workman seeking for a relief of setting aside, the punishment imposed on the concerned workman by the Respondent/Management, the Petitioner Union or the concerned workman has not chosen to appear before this tribunal to establish their case. No reason also has been forthcoming from the I Party/Union for their inaction to prosecute this case before this Tribunal, though they have been duly informed by this Tribunal by registered post, so there is nothing available on record to come to the conclusion that the contention of the Petitioner Union can be accepted as correct. On the other hand, by filing the statement of objection for the II Party/Management and by giving the details of enquiry proceedings, the II Party/Management had contended that the Respondent/Management has imposed punishment through the Disciplinary Authority for the proved misconduct of the concerned workman. It is further contended that the proved misconduct of the concerned workman were grave in nature as the concerned workman had indulged in acts subversive of discipline and good behaviour. It is further contended this has been established before the Enquiry Officer by ample, oral and documentary evidence by the Respondent/Management and after perusal of the same only, the Enquiry Officer has given a finding in his report that three out of the five charges levelled against the concerned workman had been proved and concluded that the concerned workman had committed misconduct which is subversive of discipline and good behaviour inside the premises of the company and that though the proved charges were grave in nature the Disciplinary Authority had taken a lenient view while awarding punishment of two days suspension, through the gravity of the charges proved against the charge sheeted employee deserves maximum punishment. To disprove this contention, the

Petitioner Union or the concerned workman has not appeared before this Tribunal and put forth their case to prove that the action of the Respondent/Management in awarding the punishment against the concerned workman is an unjustified one. So, under such circumstances, this Tribunal has no occasion to interfere with the punishment imposed by the Disciplinary Authority of the Respondent/Management on the concerned workman for the proved misconduct, since it is a justified action taken by the management to maintain discipline in its establishment. Hence, it is found that the action of the Respondent/Management imposing punishment of two days suspension on the concerned workman Sri T. Murugesan for the proved misconduct is a justified one. Hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

6. In the result, an Award is passed holding that the concerned workman Sri T. Murugesan is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him corrected and pronounced by me in the open court on this day the 7th January, 2003.)

K. KARTHIKEYAN, Presiding Officer.

Witnesses Examined :—

On either side : None

Documents Exhibited :

On either side : Nil

नई दिल्ली, 17 फरवरी, 2003

का. आ. 800.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार मद्रास पोर्ट ट्रस्ट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 506/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-02-2003 को प्राप्त हुआ था।

[सं. एल-33012/1/97-आई. आर. (विविध)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 17th February, 2003

S.O. 800.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 506/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Madras Port Trust and their workman, which was received by the Central Government on 17-02-2003.

[No. L-33012/1/97-IR (M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 13th December, 2002

PRESENT :

K. KARTHIKEYAN : Presiding Officer

INDUSTRIAL DISPUTE NO. 506/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 101/98)

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman and the Management of Madras Port Trust.]

BETWEEN

The General Secretary, : I Party/Claimant
Dr. Ambedkar Madras Port Trust &
Dock Labour Board Employees Union,
Chennai.

AND

The Chairman, : II Party/Management
Madras Port Trust,
Chennai.

APPEARANCE :

For the Claimant : Sri K. Raja, Advocate

For the Management : Mr. J. Sathya Narayana
Prasad, Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-23012/1/97/IR(M) dated 20-07-98.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 101/98. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 506/2001 and the same was dismissed by this Tribunal vide order dated 12th June, 2001 for default and non-prosecution of the I Party/Claimant.

Subsequently, as per the orders passed by this Tribunal in I.A. No. 130/2001, for restoration of I.D. No. 506/2001 to adjudicate the industrial dispute on merits, a conditional order has been passed directing the Petitioner Union to pay the cost of Rs. 200/- to the Respondent/Management on or before 23-5-2002 and on filing a memo stating that the conditional order has been complied with by the Petitioner Union, the petition was allowed and the I.D. was restored to file for adjudicating the same on merits. Both the parties have prosecuted this case through their respective counsel on record.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on the side of the I Party/Claimant alone, the other material papers on record after hearing the arguments advanced by the learned counsel on either side and this matter having stood over

till this date for consideration, this Tribunal has passed the following:—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows:—

“Whether the action of the Madras Port Trust in imposing the punishment of increment cut for 6 months on Shri R. Ramasamy, Syrang, Marine Department is justified or not? If not justified, to what relief Sri R. Ramasamy is entitled?”

2. Dr. Ambedkar Port Trust & Dock Labour Board Employees Union, Chennai has raised this industrial dispute as Claimant espousing the cause of the workman Sri R. Ramasamy challenging the punishment imposed by the II Party/Management Madras Port Trust on the concerned workman by cutting the increment for six months as unjustified. The case of the I Party/Claimant Union are briefly as follows:—

The work schedule for the different crew for sailing out vessel from the harbour is to be fixed every day. Like that on 15-03-96 the work schedule for four crews by turn basis have been fixed. On 15-3-96 four crews have been fixed by turn as their work schedule. In the first turn, Sri P. Dhakshinamoorthy, Dock Syrang and Sri P. Durai were there, in the 2nd turn Sri R. Ramasamy Dock Syrang was there, in the 3rd turn Dock Syrang Sri M. Munusamy, Dock Syrang and Imayavarman Dock Syrang were there and in the last turn Sri R. Adimoolam and Sri A.T. Sathiyannarayana were there. The first turn crew sailed out one vessel from the NQ of the harbour and the 2nd turn crew also sailed out one vessel from SQI of the harbour. The 3rd turn crew also sailed out one vessel from SQII of the harbour and the 4th vessel has to be sailed out by the 4th turn crew only. When the 4th turn crew refused to sail out the vessel as a routine practice, the 1st turn crew had to sail, then the 2nd turn crew had to work. When the 4th vessel had to be sailed out by the 4th turn crew and the 4th turn crew refused to sail out the vessel, the harbour Master illegally adopted pick and choose policy by directing Sri R. Ramasamy namely the 2nd turn crew to attend to M.V. Tiger Island, instead of directing the 1st turn crew to attend to that work. As per rule, the Harbour Master has now power to control a Syrang only the Senior Signalman at the signal station is the controlling authority. The signal man used to direct crews to work. On the particular day, it was not the turn of Sri R. Ramasamy as such the entire set was not working. A perusal of the work allotment book dated 15-3-96 will reveal the same. The Respondent Chennai Port Trust management ought to have been initiated disciplinary proceedings only against the 4th turn crew and the 1st turn crew and not against the 2nd turn crew namely Sri R. Ramasamy. Finally, the disciplinary proceedings were initiated only against Sri R. Ramasamy and 4th turn crew. While imposing the punishment, the 4th turn crew were awarded only a minor punishment namely censure, whereas Sri R. Ramasamy only was awarded the punishment of

stoppage of increment for a period of six months with cumulative effect by order dated 22-8-96 and no punishment was awarded to other crews. The punishment imposed is illegal, arbitrary and without application of mind. Therefore, the same is liable to be set aside. The impugned order does not speak anything about the basis, evidence on which the punishment was imposed. Even though, the concerned workman requested the Respondent to furnish copy of work allotment book dated 15-3-96 the same was not furnished, which is clearly amounting to denial of fair justice. The impugned disciplinary proceedings were initiated with mala fide in order to harass the delinquent who is the president of the Union. Before imposing the punishment, no detailed enquiry was conducted, thus amounting to violation of principles of natural justice. The punishment imposed by the 2nd Respondent is disproportionate to the charges levelled against the delinquent. Therefore, it is prayed that this Hon'ble Court may be pleased to call for the records of 2nd Respondent dated 22-8-96 and quash the same.

3. The case of the Respondent/Management as stated in their Counter Statement are briefly as follows:—

On 15-3-96 the 1st turn crew attended to sailing of M.V. Zinovy Solovyev and the pilot after sailing out the vessel boarded M.V. Tiger Island at the outer anchorage at 8.00 hrs. to bring her to the container terminal berth 1. It was the turn of Sri R. Ramasamy Dock Syrang but refused to carry out this work resulting the pilot to wait on board the vessel at CTB turning circle till the end of 1st shift namely at 14.00 hrs. and disembark since the 2nd turn crew did not turn up for work. There was no other way excepting to send the 2nd shift pilot and the crew to attend to this vessel. Accordingly, the vessel was secured in berth only at 15.40 hrs. His refusal to do the allotted work has resulted in consequential delay to shipping work for nearly 24 hours. Though it is specifically admitted that Sri R. Ramasamy headed 2nd turn crew, it is contrary to the facts that he has attended to any work in that shift what happened with the other turns of crew is of no consequence. Since the entire shipping movements were upset only by the refusal of Sri R. Ramasamy and his crew who were required to attend their legitimate turn, the refusal of 4th turn crew has no significance. Harbour Master who is incharge of shipping movements in the port and an officer second in command in Marine Department had made an attempt to prevail upon Sri R. Ramasamy to attend to vessel and there was consequential delay to other shipping movements. Each crew allotted the one work and also in the order of occurrence and therefore, the question of Harbour Master illegally adopting pick and choose policy is contrary to the facts. The Harbour Master who was incharge of shipping movements had no power to control a Syrang is denied. All the marine pilotage workers are under the control of Harbour Master. It is quite but natural he has to intervene and interact any one to tackle the situation when his command is misplaced. The signal station staff are only the channel for conveyance of orders and they cannot become authorities themselves. The work was allotted to each turn crew as per the occurrence of work and as such

it is not proper to state that it was not turn of Sri R. Ramasamy Dock Syrang. Consequential delay to shipping movements in first instance was due to refusal of work by Sri R. Ramasamy. If Sri R. Ramasamy Dock Syrang had attended his turn, the delay in shipping movements as planned could have been avoided as such Sri R. Ramasamy Dock Syrang is liable for punishment and the administration is within its jurisdiction to impose any punishment based on the gravity of offence. It is not correct to say that the punishment imposed is illegal, arbitrary and without application of mind. Since the explanation submitted by the employee was not satisfactory the punishment was imposed only by proper application of mind based on gravity of misconduct. The order of punishment was a speaking order. The action of the employee in refusing to carry out the allotted work is highly reprehensible and his misconduct called for severe disciplinary action under sub-regulation 6 of Regulation 4 of M.P.T. Employees (Conduct) Regulation 1987. However, a lenient view was taken considering his length of service, the minor punishment with stoppage of increment for six months without cumulative effect was imposed. There is no such work allotted book but every day's turn is decided at the beginning of the shift based on the previous day's work. If for instance only three sets of crew had attended to work that day, the next day the fourth set would have to take up 1st turn. Thus a system is following in working out the turns. No two different stands were taken during the proceedings before Assistant Labour Commissioner (Central). It is not true that the trust could not fulfil the obligations to treat M.V. Tiger Island as per the arrangements with the liner. It was also considered important and urgent in view of the visit of the Hon'ble Minister of Mines. As per rules, imposing of stoppage of increment is a very minor one and the formalities of conducting an elaborate enquiry need not be adhered to. The explanation and the facts were duly considered by Disciplinary Authority. The allegations that the impugned proceedings were initiated with malafide in order to harass the delinquent is denied. There is no violation of the established principles of natural justice or any rule of regulation. The allegations that punishment imposed is disproportionate to the charges levelled are denied. A lenient view was taken and only a minor punishment was imposed even though the gravity of the misconduct would warrant a major punishment. Therefore, it is prayed that the Hon'ble Tribunal may be pleased to dismiss the claim of the petitioner Union.

4. When the matter was taken up for enquiry finally, no one has been examined as a witness on either side. 9 documents have been marked on the side of the I Party/Claimant as Ex. W1 to W9. No document has been marked as an exhibit on the side of the II Party/Management. The argument advanced by the learned counsel on either side was heard.

5. The Point for my consideration is—

“Whether the action of the Madras Port Trust in imposing the punishment of increment cut for 6 months on

Shri R. Ramasamy, Syrang, Marine Department is justified or not? If not justified, to what relief Sri R. Ramasamy is entitled?”

Point :—

It is not disputed that Sri R. Ramasamy Dock Syrang was in the II turn of schedule of duties for sailing out the vessel in the harbour on 15-3-96. It is also not disputed that on 15-3-1996 when the concerned workman Sri R. Ramasamy has been allotted the II turn in the schedule of work has refused to attend the M.V. Tiger Island, even after instructions to that effect was given by Harbour Master. So disciplinary action was taken against the concerned workman Sri R. Ramasamy by the Respondent/Management Madras Port Trust by issuing a memo calling for his explanation. The xerox copy of the memo dated 8-5-1996 is Ex. W1. Ex. W2 is the xerox copy of the explanation dated 11-6-1996 given by Sri R. Ramasamy to the Deputy Port Conservator, Madras Port Trust. As the explanation submitted by the concerned workman was found not satisfactory, the Respondent/Management by an order dated 22-08-1996 imposed the punishment of withholding his next increment for a period of six months without cumulative effect. Xerox copy of the order is Ex. W3. Ex. W4 is the representation made to the Regional Labour Commissioner (Central) by the Petitioner Union, requesting him to direct the II Party/Management to take a lenient view and to revoke the order passed against the concerned workman Sri R. Ramasamy Ex. W5 is the Xerox copy of the reply given by the II Party/Management to the representation made by the Claimant Union before the Regional Labour Commissioner. Ex. W6 is the xerox copy of the reply given by the II Party/Management to the Assistant Labour Commissioner (Central-I) dated 5-3-1997 for conciliation proceedings. During the conciliation the I Party/Claimant Union has made another representation to the Assistant Labour Commissioner (Central-I) dated 20-03-1997 in respect of the occurrence took place on 15-3-1996. The xerox copy of the same is Ex. W7. Ex. W8 is the xerox copy of the reply of the II Party/Management dated 21-3-1997 submitted before the conciliating authority for the rejoinder of the I Party/Claimant Union. Again the I Party/Claimant Union has filed 2nd rejoinder on 28-4-1997 before the conciliating authority and the xerox copy of the same is Ex. W9.

6. It is seen from Ex. W1 memo that the concerned workman Sri R. Ramasamy Dock Syrang, has refused to attend to M.V. Tiger Island on 15-3-96 even after the intervention of Harbour Master. In the reply Ex. W2, the concerned workman has not denied the imputation of the charge that he has refused to attend M.V. Tiger Island on 15-3-96, even after the intervention of Harbour Master but he would say in his explanation that since the men of first duty refused no instruction has been issued as he was posted for 3rd turn. Since his explanation in Ex. W2 found to be not satisfactory, the disciplinary action was taken by the Deputy Port Conservation by issuing a memo dated 22-8-96 under Ex. W3 by imposing a punishment of

withholding his next increment for a period of six months without cumulative effect. Considering the concerned workman's refusal to abide by the instructions of Harbour Master as a misconduct and warrants disciplinary action under the Regulations of Madras Port Trust Employees (Conduct) Regulation. In the Claim Statement the Petitioner Union has stated that the said Sri R. Ramasamy was allotted his turn in the schedule of work for the day as II turn. It is further contended that on 15-3-96 the said vessel has to be sailed out by IV turn crew i.e. Sri Athimoolam, Dock Syrang and Sri A. T. Satyanarayana and they have refused to sail out the vessel so as a routine practice, the I turn crew has to sail, but the Harbour Master illegally adopted pick and choose policy and directed the concerned workman Sri R. Ramasamy of the II turn crew to attend to M. V. Tiger Island and that as per rule, the Harbour Master has no power to control a Syrang and only Senior Signalman at the signal station is the controlling authority. From this, it is seen that at the day of incident an instruction has been given by harbour master to the concerned workman Sri R. Ramasamy who was in the II turn crew to attend to M. V. Tiger Island, as it is mentioned in Ext. W1, the charge memo dated 8-5-96. It is also not denied by concerned workman in his reply Ex. W2. It is the contention of the I Party/Union in the Claim Statement for the first time that the Harbour Master has no power to control a Syrang and only a Senior Signalman at the Signal Station as the controlling authority can give instructions to Syrang and that Harbour Master illegally adopted pick and choose policy and directed the concerned workman in the II turn crew to attend M. V. Tiger Island. This has not been stated so earlier by the concerned workman in his reply under Ex. W2. In the Counter Statement, it is clearly stated that the concerned workman's refusal to do the allotted work has resulted in consequential delay in shipping work for nearly 24 hours. It has not been denied by the I Party/Union by any rejoinder to the Counter Statement of the Respondent/ Management. Further, it is averred in the Counter Statement that Harbour Master who is in-charge of shipping movements in the Port and an officer second in command in Marine Department had made an attempt to prevail upon Sri R. Ramasamy to attend to the vessel and there was consequential delay to the other shipping movements. It is further alleged in the Counter Statement that the allegation of the Petitioner Union that the Harbour master who is the incharge of shipping movements has no power to control a Syrang is denied and further stated that all the marine pilotage workers are under the control of the Harbour Master and that it is quite but natural that he has to intervene and interact any one to tackle the situation when his command is misplaced and that the signal station staff are only the channel of conveyance of orders and they cannot become authorities themselves. This averment in the Counter Statement has not been denied by the I Party/Union as false or incorrect by filing a rejoinder. Thus, the said averment of the Respondent/Management in their Counter Statement remains un rebutted. It is also contended in the Counter Statement of the Respondent/Management that

consequential delay to shipping movements in the first instance was due to the refusal of work by Sri R. Ramasamy and that if Sri R. Ramasamy, Dock Syrang had attended his turn, the delay in the shipping movements as planned could have been avoided and as such, Sri R. Ramasamy, Dock Syrang is liable for punishment and the administration is within its jurisdiction to impose any punishment based on the gravity of the offence and that the action of the said employee in refusing to carry out the allotted work is highly reprehensible and his misconduct called for severe disciplinary action under M.P.T. Employees Conduct Regulation, 1987 and however, a lenient view was taken considering his length of service by imposing a minor punishment with stoppage of increment for a period of six months without cumulative effect.

7. The main contention in the Claim Statement is that before imposing the punishment, no detailed enquiry was conducted and it amounts to violation of principles of natural justice. Learned counsel for the Respondent/ Management has filed the Xerox copy of office order dated 15-7-80 mentioning the duties of the Harbour Master, wherein it is stated that the Harbour Master is the Chief Executive of the Marine Department and will be responsible to the Deputy Port Conservator for the proper execution of all the duties mentioned therein and he must exercise the powers as per rules to supervision and control and to ensure that they are fully observed. The first of the duties prescribed to the Harbour Master under that office order is that he is responsible for discipline of all employees in the Marine Department and next is that he is responsible for the ship entry, berthing and clearance of ships and he must exercise supervision over the work and conduct of Dock Masters and Pilots. So under this powers and duties assigned to him as Harbour Master on the day in question i.e. on 15-3-1996, he directed the concerned workman Sri R. Ramasamy Dock Syrang, to attend to the work of moving through for berthing the vessel M. V. Tiger Islands. So, under such circumstances, the stand taken by the Union in this dispute that the Harbour Master has no power to control a Syrang is incorrect. The Respondent/ Management has also filed Xerox copies of Madras Port Trust Employees Classification and Control Appeal Regulations, 1988. Under this Regulation, in Part V, under head of Penalties and Disciplinary Authorities, penalties that have to be imposed as major penalties and minor penalties have been mentioned. Under the head minor penalties, under clause 8 sub-clause a (4) it is mentioned as withholding of increments of pay. Under Clause 14 of this regulation the procedure for imposing minor penalties have been stated. As per this provision, imposing a minor penalty can be done after informing in writing the employee of the proposal to take action against him and on the imputation of misconduct or misbehaviour on which it is proposed to be taken and giving him an opportunity of making any representation he may wish to make against the proposal and that holding an enquiry in the manner laid down in sub-regulation 3 to 23 of Regulation 12 in every case in

which the Disciplinary Authority is of the opinion that such enquiry is necessary. So from the facts of this case, it is seen that prior to imposing a minor punishment for the misconduct to the concerned workman Sri R. Ramaswamy, the I Party/Management has issued to him a show cause memo under Ex. W1 calling for his explanation for the alleged misconduct and by giving such an opportunity to the concerned workman, he was permitted to put forth his explanation for the imputation of the misconduct by giving his reply in writing. As such, the concerned workman has given his reply to the memo under Ex. W1 through Ex. W2, having perused that reply and having found that the imputation of the misconduct mentioned in Ex. W1 has not been denied by the concerned workman in his reply Ex. W2, the Disciplinary Authority was of the opinion that no enquiry is necessary. So Disciplinary Authority has proceeded to give a penalty memo under Ex. W3 holding that the said misconduct of the concerned workman is liable to be dealt with by imposing a minor punishment and thereby ordered withhold of increment of the concerned workman for a period of six months without cumulative effect with the warning that the recurrence will be viewed seriously. From this it is seen that the said undisputed misconduct of the concerned workman as alleged in Ex. W1 has been viewed sympathetically and a lenient punishment has been imposed by the Disciplinary Authority taking into consideration of his length of service, as it is contended by the Respondent/Management in their Counter Statement. Further under Clause 14 sub-clause 3 of Madras Port Trust Employees Classification and Control Appeal Regulations, 1988, it is stated as follows :—

“Notwithstanding the provisions contained in Clause B of sub-regulation 1, if in a case it is proposed after considering the representation, if any, submitted by the employee, to withhold increments of pay for a period exceeding three years or to withhold increments of pay with cumulative effect for any period or if the penalty of withholding of increments is likely to effect adversely, the amount of pension payable to the employee an enquiry shall invariably be held in the manner laid down in sub-regulations 3 to 23 of regulation 12 before making any order imposing on the employee any such penalty.”

From this regulation, it is seen that an enquiry is not necessary, since it is the minor penalty and not the penalty mentioned in this Sub-regulation 3 of regulation 14, Further, it not the contention of the I Party-Union that the imposing of penalty by Disciplinary Authority against the concerned workman by withholding the increment for six months without cumulative effect as it is mentioned under Ex. W3, is likely to effect adversely the amount of pension payable to the employee. So, under such circumstances, it cannot be said that the action of the Respondent/Management in imposing the minor punishment on the concerned workman without conducting a detailed enquiry is amounting to violation of principles of natural justice and it cannot be

also said that it is disproportionate to the charges levelled against the delinquent. Under such circumstances, it can be held that the action of the Madras Port Trust in imposing the punishment of increment cut for six months on Sri R. Ramasamy, Syrang, Marine Department is justified. Hence, the concerned workman is not entitled for any relief.

8. In the result, an Award is passed holding that the concerned workman Sri. R. Ramasamy, Syrang Marine Department is not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Exhibited :—

For the I Party/Workman :—

Ex. No.	Date	Description
W1	08-05-96	Xerox copy of the memo issued to the concerned workman calling for explanation.
W2	11-06-96	Xerox copy of the reply submitted by concerned workman to Respondent/Management.
W3	22-08-96	Xerox copy of the order of Respondent/Management Withholding the increment of concerned workman for six months.
W4	23-10-96	Xerox copy of the letter from the Claimant Union to Regional Labour Commissioner (Central) raising the dispute.
W5	05-02-97	Xerox copy of the reply given by Chairman, Madras Port Trust to Assistant Labour Commissioner (Central).
W6	05-03-97	Xerox copy of the letter from Respondent/Management to Assistant Labour Commissioner (Central) regarding Conciliation proceedings.
W7	20-03-97	Xerox copy of the letter from the Claimant Union to Assistant Labour Commissioner (Central), Chennai.
W8	21-03-97	Xerox copy of the reply given by Respondent/Management to Assistant Labour Commissioner (Central).
W9	28-04-97	Xerox copy of the letter from Claimant Union to Assistant Labour Commissioner (Central) Chennai.

For the II Party/Management :— Nil

नई दिल्ली, 17 फरवरी, 2003

का. आ. 801. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दामोदर मंगलजी एंड कं. लि., दामोदर मंगलजी माइनिंग कं. (प्रा.) लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुंबई नं. 2 के पंचाट (संदर्भ संख्या 88/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-02-2003 को प्राप्त हुआ था।

[सं. एल-29011/26/2000-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 17th February, 2003

S.O. 801. — In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 88/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Damodar Mangalji & Company Limited, Damodar Mangalji Mining Co. Pvt. Limited, and their workman, which was received by the Central Government on 17-02-2003.

[No. L-29011/26/2000-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL NO. 2, MUMBAI

REFERENCE NO. CGIT-2/88 OF 2000

EMPLOYERS IN RELATION TO THE
MANAGEMENT OF

(1) M/s. DAMODAR MANGALJI & COMPANY
LIMITED

The Managing Director,
M/s. Damodar Mangalji & Company Limited,
Damodar Niwas, M.G. Road, P. B. No. 32,
Panjim, Goa-403001.

(2) M/s. DAMODAR MANGALJI MINING CO. PVT.
LIMITED

The Managing Director,
M/s. Damodar Mangalji Mining Co. Pvt. Limited,
Damodar Niwas, M. G. Road,
Panjim, Goa-403001.

AND

Their Workmen

(1) GOA MINE WORKERS UNION

The General Secretary,
Goa Mine Workers Union,
P. B. No 90. Vasco-da-Gama, Goa.

(2) DAMODAR MANGALJI MINE WORKERS
UNION

The General Secretary,
Damodar Mangalji Mine Workers Union,
Reg. Office Deulem Pissurlem Mine,
Pissurlem, Sattari-Goa.

(3) UNITED MINE WORKERS UNION

The General Secretary,
United Mine Workers Union,
Shetye Sankul, 3rd Floor,
Tisk Ponda-Goa.

REFERENCE NO. CGIT-2/88 OF 2000

APPEARANCES:—

For the Employers : Mr M. S. Bandodkar
Advocate.

For the Union No. 1 & 2 : V. A. Pai, Advocate.

UNION No. 3 : Mr. P. Gaonkar Representa-
tive,

Mumbai, Dated 29th January, 2003.

AWARD

The Government of India, Ministry of Labour by its Order No. L-29011/26/2000/IR(M) dated 29-8-2000 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:—

“Whether the action of the management of M/s. Damodar Mangalji & Co Ltd., Goa and M/s. Damodar Mangalji Mining Co. Pvt. Ltd., Goa in deducting two days wages from 29-12-1999 to 31-12-1999 from the salaries of workmen working at their Pissurlem Mine is legal and justified? If not, to what relief the workmen are entitled for?”

2. By the Statement of Claim (Ex. 10) union averred that the management illegally deducted the wages for the period 29th December, 1999 to 31st December, 1999 from the salaries of its employees which they had brought to the notice of the A.L.C. (C), but in vain. Management Company resisted the said claim of union by filing Written Statement (Ex. 22) contending that the employees concerned did not work during the above said period and on the principle ‘No Work No Pay’ they are not entitled to said wages. On the basis of the pleadings issues were framed at Ex. 36. When the matter was fixed for hearing the management and the three unions vide purshis (Ex. 37) pointed out that the wages for the period referred to above have been paid to

the workmen concerned, therefore, the reference is disposed of and hence the order :—

ORDER

Reference stands disposed of vide purshis (Ex. 37).

29-1-2003

S. N. SAUNDANKAR,
Presiding Officer

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL No-2 AT MUMBAI

REFERENCE NO. CGIT 2/88 OF 2000

Employees in relation to the management of
M/s. Damodar Mangalji & Company Ltd. &
M/s. Damodar Mangalji Company Pvt. Ltd.

AND

Their Workmen

MAY IT PLEASE YOUR HONOUR

CONSENT TERMS

The Parties to the above reference have settled their subject matter of dispute and Party I have paid the salaries/wages for 2 days i.e. 29-12-1999 to 31-12-99 to the workmen and the workmen have accepted the said salaries/wages. Original advance towards said wages, be treated as wages paid if any eligible worker not paid same will be paid.

The Parties submits that in view of the above, the entire dispute concerned in the reference does not survive.

The Parties therefore prays that the Reference be disposed off accordingly.

Sd/- Illegible

Adv. for Party II
29-1-2003

For Workmen Advocate
for both Unions

Adv. for Party I
Employer

(M/s. Bandonkar)

PLACE : MUMBAI

Dated 29-1-2003.

(P. G. Gaonkar)
Party II (3)

United Mine Workers Unions

नई दिल्ली, 7 फरवरी, 2003

का. आ. 802.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अलवर भरतपुर आंचलिक ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय

सरकार औद्योगिक अधिकरण, कम-लेबर-कोर्ट जयपुर के पंचाट (संदर्भ संख्या केस नं. सीजीआईटी-24/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-02-2003 को प्राप्त हुआ था।

[सं. एल-12012/09/2001-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 7th February, 2003

S.O. 802.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Case No. CGIT 24/2001) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Alwar Bharatpur Aanchlik Gramin Bank, and their workman, which was received by the Central Government on 06-02-2003.

[No. L-12012/9/2001-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JAIPUR

CASE NO. CGIT 24/2001.

REFERENCE NO. L-12012/9/2001/IR(B-I)

Sh. Hanuman Ram Latiyal
S/o Sh. Ram Dev Latiyal
R/o 1/307, Housing Board,
Nagaur (Raj.)-341001.

.....Applicant

Versus

1. The Chairman,
Alwar Bharatpur Aanchlik Gramin Bank,
1, Krishna Nagar, Bharatpur.
2. The Branch Manager,
Alwar Bharatpur Aanchlik Gramin Bank,
Branch Bari, Distt. Dholpur.Non-applicants

PRESENT :

Presiding Officer : Sh. R. C. Sharma.
For the applicant : Himself.
For the non-applicant : Sh. Ajay Gupta.
Date of Award : 21-01-2003.

AWARD

1. The Central Government in exercise of the powers conferred under clause (D) of sub-sections (1) and 2(A) of Section 10 of the Industrial Disputes Act, 1947 (for short, the Act) has referred the following industrial dispute for adjudication :—

“Whether the action of the management of Alwar Bharatpur Aanchlik Gramin Bank, Bharatpur in terminating the services of Shri Hanuman

Ram Latiyal S/o Shri Ram Dev Latiyal, clerk-cashier w.e. f. 6-11-99 was justified? If not, what relief the workman is entitled to and from what date?"

2. Subsequent to this order of reference dated 28/30-3-2001, the Central Government vide its letter dated 5-10-2001 has modified the date of termination as 27-7-99 instead of 6-11-99.

3. Succinctly speaking, the workman Sh. Hanuman Ram Latiyal has claimed that he was initially appointed as clerk-cum-cashier in the non-applicant bank on 15-12-86 in Semeli Branch of Bharatpur district and was thereafter transferred to various places. While he was posted in Bari Branch in Bharatpur district, he worked there continuously upto 26-7-99. But inspite of his satisfactory work performance, some of the officials of the non-applicant bank on account of their personal interest and biasness against the petitioner started to harass him and false charges were levelled against him, but no such charge was ever proved against him through the departmental enquiry. He has further alleged that due to malice, he was suspended on 20-7-96, but after completion of the domestic enquiry, he was allowed to resume his duties on 2-1-97. The workman has stated that because of the arbitrary attitude of the bank authorities, he was not paid his salary from May, 99 to July, 99 and when he made a request to the Chairman and the Branch Manager, Bari, for the payment of his due salary, he was instructed orally by them not to come to the bank and he was not permitted to resume work on 27-7-97 without any reason. Aggrieved by it, he raised a dispute before the Conciliation Officer against the order dated 27-7-99 on 23-9-99 wherein the non-applicant bank did not participate and a failure report was sent to the Central Govt. The workman has assailed the verbal order dated 27-7-99 as being illegal, arbitrary and against the provisions contained under Section 25-F of the Act. The workman has further stated that the juniors to him have been retained in the service and his service has been terminated without observing the provisions under Section 25-G of the Act. He has, therefore, prayed that the oral termination order dated 27-7-99 may be quashed and he may be reinstated in service with full back-wages and other consequential benefits.

4. The non-applicants have resisted the claim of the workman and have pleaded that he was dismissed from service vide order dated 6-11-99 after completion of the enquiry as per rules and was given the full opportunity of hearing. The workman in his application dated 27-9-99 submitted before the Conciliation Officer had concealed all the real facts regarding the pendency of the enquiry and has filed the statement of claim incorporating wrong facts therein. The non-applicants have stated that while the workman was transferred in the month of November, 98 to Bari, he remained absent for more than 190 days and had misappropriated a sum of Rs. 20,000/- on 26-7-99 by

mentioning wrong facts in his T.A. Bills, for which he was charge-sheeted by the order dated 2-8-99. It has been mentioned that on 27-7-99 after marking his presence in the attendance register, the workman remained willfully absent and never turned to Bari branch. As per the pleadings of the non-applicants, three charge-sheets dated 5-12-96, 11-8-98 and 2-8-99 respectively were issued against the workman. The enquiry report in the charge-sheet dated 5-12-96 was filed on 7-9-99; in the charge-sheet dated 11-8-98, the enquiry report was filed on 15-9-99 and in the charge-sheet dated 2-8-99, the enquiry report was submitted on 6-10-99 to the disciplinary authority. The petitioner was supplied with the copies of the enquiry reports and was given an opportunity of personal hearing but he did not turn up and ultimately, the final order of dismissal was passed by the disciplinary authority on 6-11-99. The non-applicants have stated that the workman has assailed the dismissal order in the appeal and his appeal, too, was rejected by the appellate authority vide its order dated 24-6-2000. The non-applicants have declined that the workman was ever asked by the authorities not to come to the bank.

5. In the rejoinder, the workman has raised an objection that the termination order dated 6-11-99 is not the subject matter of the reference before this Tribunal. He has further stated that the charge-sheet dated 5-12-96 was issued to him but no enquiry was initiated against him for a period of more than one year and he was reinstated w.e.f. 2-1-97. He has denied that the charge-sheet dated 11-8-98 was issued to him and has stated that no copy of such charge-sheet was communicated to him prior to his termination dated 27-7-99. He has also denied that he had misappropriated Rs. 20,000/- on 26-7-99.

6. In the evidence, the workman has filed his affidavit, whereas on behalf of the non-applicants, counter-affidavit of Sh. Sunil Kumar Aggarwal, officer of the bank has been submitted. The workman has exhibited as many as 9 documents, whereas the non-applicants have produced 21 documents.

7. I have heard the applicant and the Id. representative for the non-applicants and have carefully gone through the record of the case.

8. The applicant has submitted that on 27-7-99, he was not allowed to work by the bank authorities and his service was terminated without providing him any order in writing. Aggrieved by it, he agitated the matter before the Conciliation Officer who submitted a failure report to the Central Govt. The workman has stated that while the proceedings with relation to the termination order dated 27-7-99 were pending, he was dismissed from the service by the order dated 6-11-99. Contrary to it, the Id. representative for the non-applicants have contended that the workman was served with three charge-sheets respectively, that on 26-7-99, he misappropriated the public

money and as a result thereof, the FIR was lodged on 26-7-99 against him. He submits that on 27-7-99, the workman attended the office but after marking his presence, he left the office and never turned up again in the office. As per his contention, the workman was not disallowed by the bank authorities to continue with his work on 27-7-99 and that he was dismissed from the service vide order dated 6-11-99.

9. I have given my thoughtful consideration to the rival contentions.

10. Now, the question which crops up in this dispute for consideration is whether the termination of the workman w.e.f. 27-7-99 was justified.

11. The stand adopted by the workman is that he was not permitted to perform his duties on 27-7-99, whereas the non-applicants have pointed out that on account of the misappropriation of the public money on 26-7-99, FIR was lodged against him and though he attended the office on 27-7-99, yet after marking his attendance in the register, he left the office with the police constable and thereafter, he did not turn up in the office.

12. Admittedly, there is no written order of terminating the service of the workman on 27-7-99. The workman has simply asserted that he was not permitted to perform his duties on 27-7-99 and thereafter. In his cross-examination, he has admitted this fact that the FIR for embezzlement of the public money was lodged against him and that on 27-7-99, he was sent to police station by the Branch Manager along with the police constable. The key document to be examined in this context is the attendance register of the bank which is marked as Ex. W-8. It shows that the workman remained absent in the month of July from 1st to 22nd, that he attended the office from 23rd to 26th and that on 27th of July, his presence is marked only at the time of arrival and at the time of departure, the relevant column of the register manifests his absence. Thereafter, it appears that by the end of the month, he did not join the office. It is also further shown that the workman had not turned up in the office for the whole of month of August. Therefore, the assertion of the workman that he was not permitted to work on 27th of July, 99 by the bank authorities is not proved to be correct on the basis of the material placed before the Tribunal. The workman himself could not stand his cross-examination.

13. As against it, Sh. Sunil Kumar Aggarwal, an officer of the non-applicant bank while narrating the facts of the case, has stated that three charge-sheets dated 5-12-96, 11-8-98 and 2-8-99 respectively were served on the workman, that the workman abstained from his duties, that he attended the office on 23rd of July, 99 and that on 26-7-99 while he was working as a cashier, without obtaining the permission of the concerned authorities, he had withdrawn Rs. 20,000/- from the bank account and

that on 27-7-99, after marking his presence in the attendance register, he left the office along with the police constable and did not turn up again. This witness has been cross-examined at length, but he could not be shaken.

14. The non-applicants have produced the termination order dated 6-11-99 Ex. M-15 on the record and have pleaded that by this order, the service of the workman was terminated. However, in the terms of the reference on hand, oral order of termination dated 27-7-99 is mentioned, which is the subject matter of this reference and that too is assailed by the workman.

15. On the basis of the aforesaid analytical examination of the facts and circumstances involved in the case, it appears that the workman himself abstained from his duties on 27-7-99 after marking his attendance in the official register and did not turn up again. He has not been able to establish his claim on the basis of the evidence adduced by him that he was not allowed to join the office and perform his duties and that his service was orally terminated by the bank authorities w.e.f. 27-7-99. Thus, he has failed to prove the claim sought by him.

16. Consequently, the reference is answered in the negative and an award is passed in the terms that the workman does not deserve to be granted the relief prayed for and accordingly his claim is dismissed.

17. Let the copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 7 फरवरी, 2003

का. आ. 803.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लक्ष्मी विलास बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर-कोर्ट चैन्नई के पंचाट (संदर्भ संख्या आई.डी. नं. 16/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-02-2003 को प्राप्त हुआ था।

[सं. एल-12012/476/2001-आई आर (बी-1)।

अजय कुमार, डेस्क अधिकारी

New Delhi, the 7th February, 2003

S. O. 803.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I. D. No. 16/2002) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Lakshmi Vilas Bank Ltd. and their workman, which was received by the Central Government on 06-02-2003.

[No. L-12012/476/2001-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Tuesday, the 7th January, 2003

PRESENT:

K. KARTHIKEYAN, Presiding Officer
INDUSTRIAL DISPUTE NO. 16/2002

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri P. K. Raju and the Management of Lakshmi Vilas Bank Ltd., Karur.)

BETWEEN

Sri P.K. Raju : I Party/Workman

AND

The Assistant General Manager, : II Party/Management
 Lakshmi Vilas Bank Ltd., Karur

APPEARANCE :

For the Workman : M/s. C. Ramkumar & N. Arun
 Kumar, Advocates

For the Management : M/s. T. S. Gopalan & Co.
 Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-12012/476/2001/IR(B-I) dated 05-02-2002.

On receipt of the order of reference from the Government of India, Ministry of Labour, this case has been taken on file as I.D. No. 16/2002 and notices were sent to the parties to the dispute by registered post, with a direction to appear before this Tribunal on 5-3-2002 to file their respective Claim Statement and Counter Statement and to prosecute this case further. Accordingly, learned counsel on record on either side have filed their respective claim statement and counter statement and prosecuted this case further.

Upon perusing the Claim Statement, Counter Statement, documentary evidence let in on the side of the II Party/Management alone, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following : —

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of the Lakshmi Vilas Bank Ltd., Karur, removing from

the services after imposing the penalty to Sri P. K. Raju by order dated 12-08-1999 is justified? If not what relief is he entitled to?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri P.K. Raju (hereinafter refers to as Petitioner) are briefly as follows: —

The Petitioner joined the Respondent/Bank on 16-03-1979 and since then his services remain unblemished till he was removed by the bank. While he was in cash section on 23-02-98 at Kangeyam branch one of the constituent Myil Samy deposited a sum of Rs. 8500 in his S. B. Account No. 2866 and the same was entered in the account on the same day. On 24-2-98, the Branch called the Petitioner and asked whether any excess amount has been received by him. On verification of the account, the Petitioner submitted that there was no excess balance of cash as per statement of accounts. To the surprise of the Petitioner, the then Manager stated one constituent by name Mr. Myilsamy complaint about his remittance of excess cash of Rs. 1000 in his S.B. Account on 24-2-98 as per the challan enclosed therewith and further there was some discrepancies both in figures and as well as in writing. The Petitioner failed to report the same to the higher authorities. The Petitioner denied that no such excess amount was paid by any Constituent of the bank at the instance of Bank Manager, he was forced to remit the alleged excess amount to the constituent. The deposit challan mentioned in figures as a sum of Rs. 8500 and whereas in the back side of the challan various denomination totalled to Rs. 9500, the said deposit challan was also disfigured on its face about which the Petitioner knew nothing about it. However as directed and advised by the Manager without any further enquiry, the Petitioner remitted the alleged excess amount of Rs. 1000 in the presence of all bank staff. Long thereafter, a charge sheet dated 17-6-98 was given to the Petitioner by the management alleging that detrimental to the interest of the bank amounting to a major misconduct as per bye-law 19.5 (j) of Bipartite Settlement and called upon the Petitioner to give an explanation therefor. The Petitioner denied the said charge as false and unfounded and stated that he did not commit any act detrimental to the interest of the bank and no loss was occurred either to the bank nor did he conduct himself violating any of the rules of the bank. Not satisfied with the explanation offered by the Petitioner, the Respondent/Management conducted an enquiry in respect of the charge memo issued to Petitioner. On behalf of the management various documents were filed and one of the management witnesses was examined. The said management witness himself has admitted in the course of the enquiry that he was not sure that excess cash of Rs.1000/- was received by the Petitioner employee representing that he was not sure who verified and checked the deposit slip with day, that there was no mark in the deposit slip as per the instructions of the manual,

that he was not sure that who scored the figure in the deposit slip and to the query of the Petitioner employee the said witness further replied that he did not remit the amount due to the constituent. The Petitioner deposed before the Enquiry Officer that no excess cash was received on 24-2-98 as alleged by the management bank and that he made the payment of Rs. 1000 by the Manager and that he did not commit any misconduct as alleged against him. The Enquiry Officer in his findings without properly appreciating the relevant documents from the deposition of the Petitioner/ Workman came to the conclusion that the charges levelled against the Petitioner were established even without considering and referring to the vital evidence of the Petitioner, proposed the punishment of discharge from the service of the bank without notice and with immediate effect, but however mentioned therein that the Petitioner was given one more opportunity of personal hearing before him. The Petitioner gave in writing the variation in the conduct of the enquiry and the evidence sought to be relied upon but the same was turned down by the Disciplinary Authority and by his final order dated 2.8.99 the Petitioner has been discharged from service. The appeal preferred by him against the order of the Disciplinary Authority was also dismissed by the Appellate Authority by his proceedings dated 17.12.99. Then the Petitioner raised an industrial dispute before the conciliating authority. At no time, the alleged complainant was examined in the enquiry. It was not established that the deposit slip was stamped with and the alleged excess money was remitted in the bank, that the evidence of the Petitioner employee to the effect that the alleged cash was remitted at the instance of the Manager, that it was not established that any loss was occurred to the bank nor any wrongful gain made by the employee and that the charge sheet itself is vague without proper materials. The Enquiry Officer himself has already pre-determined to impose the punishment by removing him from service. For all these reasons, the findings of the Enquiry Officer and consequent orders passed by the Disciplinary Authority and Appellate Authority are all vitiated in law and on facts. The punishment awarded against the Petitioner for discharging him from service without notice is quite disproportionate to the alleged misconduct which is against the terms of Bipartite Settlement and hence it may be resented by this Hon'ble Tribunal as per the provisions of Section 11A of Industrial Disputes Act, 1947. Hence, it is prayed that this Hon'ble Tribunal may be pleased to pass an award setting aside the order of discharge passed by the II Party/ Management and pass such other orders as this Hon'ble Court deems fit.

3. The averments in the Counter Statement filed by the II Party/Management Lakshmi Vilas Bank Ltd. Karur (hereinafter refers to as Respondent) are briefly as follows:—

The Petitioner was last employed as a clerk in Kangeyam branch. It would appear that on 23-2-98

representative of one Mayilsamy who is having S. B. Account No. 2866, gave the Petitioner, who was acting as a cashier a sum of Rs. 9500 with a challan on the face of which the amount in words was written as Rs. 8500 and on the reverse side of the challan particulars of the denominations of cash remitted have been shown as Rs. 9500. The account was credited only with a sum of Rs. 8500 and no excess cash was reported. On 24.2.98 the representative of the account holder came to branch and complained of excessive remittance. When the Branch Manager enquired the Petitioner, though he initially denied the excess remittance, later he paid Rs.1000 to the representative of Mayilsamy. On 25-2-98 the Divisional Manager at Coimbatore visited the branch and he also noticed the discrepancy that on the face of the challan words were written as Eight thousand five hundred and on the reverse side the particulars of denominations were shown as Rs. 9500. The Divisional Manager wanted to know how the excess cash was accounted. On 13-3-98 the Divisional Manager, Coimbatore addressed a letter to branch, asking for an explanation as to how the excess amount came to be accounted. On 18-3-98 the branch gave a reply to the Divisional Manager pointing out that on 23-2-98 the Petitioner who was in cash section, did not report any excess cash that when the party came to branch on the next day he told that he had remitted an excess of Rs. 1000 that when the Petitioner was questioned, he said that cash was tallied and there was no excess cash and that the Petitioner later on paid sum of Rs. 1000 to the party. On 13-4-98 the Head Office addressed a further letter pointing out that the denominations figure of Rs. 9500 on the reverse side of the challan was verified by the cashier, therefore, Rs. 9500 must have been received and if Rs. 9500 was received then how there was be no excess cash. The branch gave a reply dated 22-4-98 stating that on 23-2-98 since the Petitioner had not reported any excess cash, the Branch Manager was not aware of it, that on the next day when the representative of the account holder came to the branch he said about the excess remittance of Rs. 1000 that then only the Branch Manager came to know the excess remittance that when the Branch Manager enquired, he said that there was no excess cash on the previous day. However, he paid a sum of Rs. 1000 to the representative of the account holder and that there was no written complaint from the account holder. On 17-6-98 a charge sheet was issued to the Petitioner charging him with misconduct of committing an act detrimental to the interest of the bank amounting to major misconduct under para 19.5(j) of Bipartite Settlement. Though the Petitioner was directed to submit his written statement within 15 days of the receipt of charge sheet, he did not submit any explanation. The Petitioner was asked to appear for an enquiry. The enquiry was held on 15-9-98. In the enquiry, the Branch Manager of the Kangeyam branch Mr. A. George was examined. The Petitioner examined himself. In his evidence, the Petitioner stated that he paid Rs.1000 to the

representative of account holder at the instance of Branch Manager. However, in the course of cross examination, he admitted that he did not complain to any of the higher officials that he paid Rs. 1000 at the instance of the Branch Manager. He also admitted that usually he used to check up the cash denominations noted on the reverse side of cash remittance challan at the time of receiving cash if there was any discrepancy in the denomination particulars, he used to rectify the mistake while receiving the cash and that while the cash, denominations noted on reverse side of the challan would be checked and ticked in respect of cash received. He also admitted that there was no enmity between him and Mayilsamy, the accountholder. He also admitted that he paid Rs. 1000 to Mayilsamy from his own funds. On 22-4-99, the Enquiry Officer gave his report holding that the charge against the Petitioner was duly proved. Thereafter, the Petitioner was asked to appear for personal hearing before the Disciplinary Authority to show cause against the proposed punishment of discharge from service. The Petitioner appeared before the Disciplinary Authority on 16-6-99. After considering his representation, orders were passed on 2-8-99 discharging the Petitioner from service. Against the order of discharge, the Petitioner preferred an appeal. On 17-12-99 the Appellate Authority passed orders dismissing the appeal. The discharge of the Petitioner is fully justified and valid in law and does not call for interference by this Hon'ble Court. According to the Petitioner, on 23-2-98 the representative of the account holder of S.B. account No. 2866 remitted only a sum of Rs. 8500 that there was no excess remittance and the cash balance tallied. As against this version of the Petitioner, it is to be mentioned that on the reverse side of the challan the denominations of the remittance were shown as Rs.9500 which the Petitioner had verified and ticked that even according to his evidence, the Petitioner always used to verify the denomination of cash tendered for remittance that after such verification he used to tick the figures that the representative of the account holder who was not in any way inimical towards the Petitioner had come to the branch on the next day and complained of excess remittance and that the Petitioner has paid Rs. 1000 to the representative of the account holder. The above circumstances make it evident that there was an excess remittance and the Petitioner has misappropriated the amount. It is denied that the Petitioner paid Rs. 1000 to the representative of the account holder at the instance of Branch Manager. The Branch Manager cannot be expected to personally watch the remittances made by every account holder or the amount received by the cashier. It was in that context he stated in the cross examination that "I cannot say whether excess cash of Rs. 1000 was received by CSW from the representative Sundaram". It is immaterial whether the Branch Manager has personally seen the Petitioner receiving excess cash from the representative of the account holder. The findings of the Enquiry Officer are supported by adequate evidence and

sound reasoning and the said findings should not be disturbed. It was not necessary to examine the account holder. It was not the case of anybody that Rs.9500 was credited to S.B. account No. 2866. Therefore, the submissions of the Petitioner made in para 10 of Claim Statement do not merit any consideration. It is denied that the Respondent was pre-determined to impose the punishment of removal from service. Having regard to the gravity of the misconduct, the punishment of discharge cannot be said to be excessive or harsh. There is no scope to interference with the punishment. Therefore, it is prayed that this Hon'ble Court may be pleased to pass order dismissing the claim petition.

4. When the matter was taken up for enquiry finally, no one has been examined as a witness on either side. No document has been marked as an exhibit on the side of the I Party/Workman. 16 documents filed on the side of the II Party/Management have been marked by consent as Ex. M1 to M16. Arguments advanced by the learned counsel on either side were heard.

5. The point for my consideration is—

"Whether the action of the management of the Lakshmi Vilas Bank Ltd., Karur, removing from the services after imposing the penalty to Sri P.K. Raju by order dated 12.08.1999 is justified? If not what relief is he entitled?"

Point : —

This industrial dispute has been raised by the Petitioner/Workman Sri P.K. Raju challenging the action of the management of II Party/Management Lakshmi Vilas Bank Ltd., Karur, in removing him from the services of the bank as a penalty imposed on him by an order dated 12-8-99 as unjustified. It is admitted that the Petitioner has joined the Respondent/Bank on 16.3.79 and that he was working in the cash section as a Cashier at the Kangeyam branch on 23-2-98. It is admitted that one Mayilsamy is having one S.B. Account No. 2866 in that bank branch. The representative of that Mayilsamy came to the bank on 23-2-98 for depositing of amount in that S.B. Account of Mayilsamy and he produced the cash remittance challan for depositing Rs. 8500 by cash. The xerox copy of that challan is Ex. M3. On the reverse side of that challan, particulars of denomination of cash remitted has been shown for a total sum of Rs. 9500. It is admitted that the account was credited only with sum of Rs. 8500 and no excess cash was reported by the Petitioner on that day, he was working as cashier in that branch on that day. On 24-2-98 the next day, the representative of that account holder came to the branch and complained of excessive remittance. It is admitted that the Branch Manager called the Petitioner and asked whether any excess amount has been received by him. The Petitioner had denied the excess remittance of Rs. 1000. It is the contention of the Respondent/Management that though the Petitioner

initially denied the excess remittance later he paid Rs. 1000/- to the representative of Myilsamy and that on 25-2-98, the Divisional Manager, Coimbatore visited the branch noticed the discrepancy of the entries made in the particular challan and wanted to know how the excess cash was accounted and that on 13-3-98 the Divisional Manager, Coimbatore addressed a letter to the branch asking for an explanation as to how the excess amount came to be accounted and that on 18-3-98 the branch gave a reply to the Divisional Manager mentioning that on 23-2-98 the Petitioner who was in cash section did not report any excess cash and that when the party came to the branch on the next day and had informed the branch that he had remitted an excess of Rs.1000/- and when the Petitioner was questioned he said that cash was tallied and there was no excess cash but the Petitioner later on paid a sum of Rs.1000 to the party. But the Petitioner would contend that as directed and advised by the Manager without any further enquiry, he remitted the alleged excess amount of Rs. 1000 in the presence of all bank staff. In respect of this incident, a charge sheet dated 17-6-98 was issued to the Petitioner by Disciplinary Authority calling upon him to submit his written statement within 15 days from the receipt of that charge sheet. The xerox copy of the same is Ex. M1. In that charge sheet, it is alleged that the Petitioner had failed to report the excess cash of Rs. 1000/- and thereby committed an act detrimental to the interest of the bank amounting to major misconduct under para 19.5 (j) of Bipartite Settlement. It is contended in the Claim Statement that for the charge memo dated 17-6-98 given to him by the bank management calling upon him to give an explanation, he had denied the said charges as false and unfounded and had stated that he did not commit any act detrimental to the interest of the bank and no loss was occurred to the bank and that the bank not satisfied with the explanation offered by him, the management conducted an enquiry in respect of the charge memo issued to him. It is a specific averment in the Counter Statement that though the Petitioner was directed to submit his written statement within 15 days from the receipt of the charge sheet, he did not submit any explanation, so he was asked to appear for enquiry. This has not been denied by the Petitioner. No document has been filed by the Petitioner as a copy of the reply he has filed for the charge memo issued to him. Ex. M2 series the Xerox copies of enquiry proceedings on different dates. A perusal of this enquiry proceedings clearly shows that the Petitioner along with defence representative had taken part in the entire enquiry and has subscribed his signature along with his defence representative on all the days proceedings. It is admitted by the Petitioner himself in his Claim Statement that on behalf of the management documents were filed and one witness has been examined. The Petitioner has not contended that the domestic enquiry was not properly conducted and he was not given sufficient opportunity to put forth his defence effectively. He has not challenged the validity of the domestic enquiry. It is seen from the

proceedings of the domestic enquiry that on the side of the management one witness has been examined and the Petitioner himself has examined as a defence witness. The Branch Manager Mr. George has been examined as MW1 and he has been cross examined by the defence representative. MW1 has given evidence that the excess cash of Rs.1000 received by charge sheeted employee, came to know from the representative of Mr. Myilsamy one Sundaram and did not ask the charge sheeted employee to pay the excess cash to the customer and when he enquired Sri P. K. Raju about the excess amount of cash received all the staff members were present including the branch Accountant Kanniah. The charge sheeted employee, the Petitioner herein has deposed in his evidence that he attended the cash section on 23-2-98 and no excess or shortage was found on that day and that on 24-2-98 Manager, PW1 enquired him whether there is excess cash found on 23-2-98, for which he replied that no excess cash was found on 23-2-98 and on 24-2-98 he paid Rs.1000 to Mr. Sundaram, representative of Myilsamy at the instance of Branch Manager. In the cross examination, he has admitted that he has not submitted any written statement to the charge sheet and he had not reported about the payment made at the instance of MW1 to DO or AO and has also admitted that he usually check up the cash denomination noted on the reverse side of cash voucher at the time of receiving cash and if there is any discrepancy in the denomination particulars he used to ask the remitter to rectify the mistakes and while receiving cash the denominations noted on the reverse side of the voucher was checked and ticked in respect of the cash received and he made the payment of Rs.1000 from his own funds. It is also his admission in cross examination that two days after the incident, when the Divisional Manager came and enquired about the incident, he had not told to the Divisional Manager that he paid the amount of excess at the instance of MW1. So on the basis of the evidence on either side, the documentary evidence let in, in this case, the Enquiry Officer has given his report with his findings. The xerox copy of the same is Ex. M10. The Enquiry Officer has clearly stated in his report as his finding that the charge sheeted workman has paid the amount of Rs.1000 to Mr. Sundaram without any protest and that too out of his pocket and charge sheeted workman had not made any representation to the Divisional Manager, when he visited the branch or other authorities in respect of the payment of Rs.1000/- to the representative of S. B. Account holder at the instance of the Branch Manager. So on the basis of the evidence available, the Enquiry Officer has given a finding that the charge sheeted employee was having Rs.1000/- in his possession on the next day of the incident, and he immediately paid the said amount to the representative of the S.B. Account holder, when he was questioned about excess receipt of cash of Rs.1000/- on the previous day and that the preponderance of improbabilities all the more inherent in DW1 claim and probabilities and naturalness

are totally lacking in the evidence of DWI. He further mentioned that if there was no excess payment of Rs. 1000 and the excess money quantified, where was the occasion or need for the representative of S.B. Account holder to make a demand for refund of excess payment made by him and the contention of the Respondent/Management in this case seems to be more probable and acceptable and finally he has given a finding that DWI has suppressed the real incident that had happened and come forward with the concocted suggestion and that he arrived at a conclusion that the chargesheeted workman received excess cash of Rs. 1000 from the representative of S.B. account holder and not accounted the said amount and paid the amount when a request was made and hence, the charge against the chargesheeted workman is proved and he found him guilty of the charge. So from this it is seen that the findings of the Enquiry Officer are supported by adequate evidence and sound reasoning and hence, it does not warrant any interference by this Tribunal.

6. It is the contention of the Petitioner that the complainant was not examined in the enquiry, hence, it was not established that as per the entry in deposit slip the alleged excess money was remitted in the bank and it was not established that any loss was occurred to bank or any wrongful gain was made by the employee. On the basis of the evidence available in this case, the said contention of the Petitioner is not correct. It is not necessary to examine the account holder or the concerned representative of the account holder, who admittedly deposited the amount under the challan in question. It is nobody's case that the denomination for the total amount of Rs. 9500/- was not there on the reverse side of the challan and it was not written by the representative of the account holder who came to deposit the amount under that challan. On the other hand, it is the admission of Petitioner as DWI himself before the Enquiry Officer that he only checked the denomination mentioned on the reverse side of the challan for the total amount of Rs. 9500/- and having found them correct he made the tick mark. It is also his evidence that when the demand was made on the next day by representative of the account holder for the excess amount paid under that challan on the previous day, the Petitioner has paid the same out of his pocket to the representative of the account holder, who came to deposit the amount under that challan on the previous day. Under such circumstances, the non-examination of the concerned depositor in respect of this incident is in no way affect the findings of the Enquiry Officer. On the other hand, there are sufficient, ample evidence available before the Enquiry Officer both oral and documentary for him to arrive at the proper conclusion and to give a finding that the charge sheeted workman, the Petitioner herein, had committed the misconduct and the charge levelled against him has been proved. As it is contended by the Respondent/Management the gravity of the proved misconduct

deserves the punishment imposed on the Petitioner by the Disciplinary Authority, it cannot be considered to be an excessive one or disproportionate to the gravity of the proved misconduct. The decisions relied upon by the counsel for the Petitioner cannot be made applicable to the facts of the present case. Under such circumstances, it can be held that the action of the Respondent/Management Lakshmi Vilas Bank Ltd. is fully justified and valid in law and does not call for any interference by this Tribunal. So, the action of the management of Lakshmi Vilas Bank Ltd. Karur, removing the Petitioner Sri P.K. Raju from the services by imposing as a penalty in the order dated 12-8-99 is justified. Hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

7. In the result, an Award is passed holding that the concerned workman Sri P.K. Raju is not entitled for any relief. No. Cost.

(Dictated to the Stenographer; transcribed and typed by him, corrected and pronounced by me in the open court on this day the 7th January, 2003).

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Exhibited :-

For the 1st Party/Workman : Nil

For the 2nd Party/Management:-

Ex.No.	Date	Description
M1	17-06-98	Xerox copy of the charge sheet issued to Petitioner.
M2	15-09-98	Xerox copy of the enquiry proceedings.
	13-10-98	
	05-01-99	
	21-01-99	
	04-02-99	
	12-02-99	
M3	23-02-98	Xerox copy of the cash remittance challan A/c.No.2866.
M4	18-03-98	Xerox copy of the letter from Kangeyam branch to Div. Manager of Respondent/Bank regarding excess Remittance.
M5	22-04-98	Xerox copy of the letter from Kangeyam branch to Pers. Deptt. of Respondent/Bank regarding excess remittance.
M6	13-03-98	Xerox copy of the letter from Div. Manager of Pers. Deptt. To Kangeyam branch.

railways. His unauthorised absence without any prior notice ensuring any alternative arrangement, could have definitely caused disruptions in smooth running of trains and could have affected working of the railways. In this background, his long and frequent absence during the period 1992 to 1994 require scrutiny.

4. On close scrutiny of records produced by the management, it is fully proved that the workman remained absent time and again several time for short period also for a long period. He was marked absent in the attendance registers which demonstrates that he used to remain on unauthorised leave. The workman has not produced any evidence to explain reason of his absence. There is no material to indicate that there existed any motive to falsely show him absent. Management witnesses 1 and 3 viz. Chandra Shekhar and Irfan who had been co-workers with the workman, have fully proved that he was a frequent absentee without any notice. Management witness, the then Station Master, Ram Kumar Khare, posted at railway station Parauna from 1992 to 1996, proved that Santoshi Lal was working as a Lever Man and as per roster was required to give 12 hours duty. This witness has also stated that the workman was in habit of being absent frequently and for a very long period. He used to return some time only to be absent again and these facts were informed to the Traffic Inspector. He produced attendance registers of the relevant period showing him absent. The workman has also not denied his absence. He has also not imputed any motive to plead that he was wrongly shown absent.

5. All the three management's witnesses have given consistent statement about frequent and unauthorised absence of the workman. It was for the workman to have explained and justified his absence that he had some constraints in not to be regular in attendance. The workman was his best witness to explain his position but did not appear as witness for cross-examination, for the reasons best known to him. Also, he did not submit any other evidence to justify his absence. He was part of essential service in the operational branch of the railways. His such act of absence, is a grave misconduct. The facts are proved beyond doubt by the management's witnesses and documents produced in this Tribunal. As such, on merit, the charges framed against him are fully proved and justify severe action against him.

6. His termination order was passed by the Assistant Operating Manager (Coaching). The workman was a class IV employee. It is submitted that the workman was in higher scale as pointsman on the date of his termination and a class III employee. The Assistant Operating Manager (Coaching) was not competent to act as Disciplinary Authority against him i.e. class III employee. This argument is not convincing. The workman may have been placed in a higher scale because he worked for about 29 years but placing in a higher scale is not material unless shown that

his service status changed and he was in class III. The workman failed to show that he was class III employee. On the other hand, the management's case is that he was a class IV employee and the Assistant Operating Manager (Coaching) was competent authority being equivalent to the appointing authority and so was competent to take action.

The workman has not placed any document or rule to show that a pointsman is a class III employee.

7. Thus, the evidence adduced by the management before this Tribunal is sufficient to prove charges of grave misconduct for reasons of his being unauthorisedly absent from time to time, is fully proved. The penalty order in shape of removal imposed by the competent authority is fully justified. The order of removal/termination does not suffer with vice of illegality. Accordingly, the reference is answered against the workman. The management has acted legally in terminating services of the workman. The punishment is also not shockingly disproportionate to warrant interference.

8. Accordingly, the reference is adjudicated against the workman. He is not entitled to any relief. Award as such.

LUCKNOW

4-2-2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 10 फरवरी, 2003

का. आ. 805.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ ट्रावनकोर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोजीकोडे, केरला राज्य के पंचाट (संदर्भ संख्या आई. डी. सी. सं. 5/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-2-2003 को प्राप्त हुआ था।

[सं. एल-12012/40/95-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 10th February, 2003

S. O. 805.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I. D. (C) No. 5/96.) of the Labour Court, Kozhikode, Kerala State now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Travancore, and their workman, which was received by the Central Government on 7-2-2003.

[No. L-12012/40/95-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE**IN THE LABOUR COURT, KOZHIKODE,
KERALA STATE**

Dated this the 13th day of December, 2002

PRESENT :SHRI E. D. THANKACHAN, B.A., B.L.,
Presiding Officer

I.D. (C) No. 5/96

BETWEEN :The Deputy General Manager
State Bank of Travancore,
Head Office, Poojappura,
Trivandrum-685001.Management**AND**Sh. K. Jayachandram,
Koorantavide House,
P. C. Mekkunnu,
via.Peringathur,
Kannur. ...Worker**REPRESENTATIONS :**Sri M. Asokan, Advocate, Kozhikode. .. For Worker
Sri K.P. Damodaran Nambiar,
Advocate, Calicut.For Management**AWARD**

The Government of India vide reference No. L-12012/40/95-IR (B-I) dated 24-6-1996 referred to this court, under Section 10 (1) (d) of the Industrial Dispute Act, an industrial dispute between the management of State Bank of Travancore, Peringathur branch and its workman Sri K. Jayachandran, for adjudication and passing an award. The issue referred for adjudication is :

" Whether the action of the management M/s. State Bank of Travancore, Trivandrum is justified in terminating the service of Sh. K. Jayachandran of Peringathur branch of the management bank w.e.f. 30-6-1993 is justified ? If not justified to what relief the workman is entitled ?"

2. On receipt of the notice intimating the date of the posting of the case, both sides appeared and submitted their respective statements.

3. The following averments are made in the claim statement dated 3-10-1996 filed by the workman. The workman was working as a peon under the management. Eventhough he was posted to a permanent post at the Peringathur branch of the management bank, he was designated only as a temporary Peon. He was appointed

in the regular post of peon by the management on 2-6-1990 and he continued as such upto 29-6-1993 on which day he was denied employment by the management without any reason. He had worked under the management for three days in 1990, 240 days in 1991, 180 days in 1992 and 113 days in 1993. Thus, altogether he worked for 536 days from 1990 to 1993. Eventhough he worked as aforesaid, his name was not taken on the permanent rolls and he was not paid legitimate wages. He was initially paid Rs.20/- per day which was later on (after two years) enhanced to Rs. 25/- per day. His service was not regularised by the management even after 240 days of continuous service. As a matter of right, the workman had become automatically permanent in the year 1991 itself, during which he worked continuously, 240 days within a span of 12 months. The requests made by the workman to regularise his service fell in deaf ears. Since the management did not like the demand of the workman, the latter was denied employment with effect from 29-6-1993, and that too without assigning any reason and without complying with the mandatory provisions of law. In the Industrial dispute raised by the workman, the management, instead of sitting the dispute, raised untenable contentions before the Conciliation Officer. The allegations that the workman was engaged as a casual labourer and that the work done was of casual nature only, are absolutely incorrect and baseless. The workman was infact engaged in a regular post. The number of working days put in by the workman, as shown by the management is incorrect. The documents kept by the management and the certificate dated 3-6-1993 issued to the workman would prove that the workman had put in 536 working days during the period from 2-6-1990 to 29-6-1993. The allegation that the workman was paid cooly charges for the work and the certificate dated 30-6-1993 was obtained on a false pretext of securing an employment are false and baseless. After termination of the service of the workman the management appointed fresh hands in his place. This shows that the termination was ill-motivated and mala fide and was in violation of the provisions of Section 25(g) and (h) of Industrial Disputes Act. The workman is therefore entitled to be reinstated with backwages and continuity of service. It is therefore, prayed to pass an award directing the management to reinstate the workman with backwages, continuity of service and all other legal benefits including compensation for illegal termination.

4. The contentions raised by the management in the reply statement are as follows :— The claim is not maintainable. It is incorrect to say that Mr. Jayachandran was working as a Peon under the management and that eventhough he was posted to a permanent post, he was designated as temporary peon. It is unknown as to whether he possess the required minimum qualifications. No appointment order was issued to him by any authority of the bank. His claim that he was appointed to the regular post of Peon on 2-6-1990 and continued upto 29-6-1993

on which day he was illegally denied employment without assigning any reason is baseless and the details of engagement particulars shown is incorrect. As per the instructions of the Government of India, recruitment to subordinate staff like Peons in the management bank, (which is a body corporate governed by the State Bank of India) has to be made from the panel of candidates advised by the Employment Exchange and that too after holding an interview by a multi-member Interview Board constituted by the bank authorities. Appointments are made on the strength of written appointment orders issued by the officers, not below the rank of the Deputy General Manager. Peringathur branch of the State Bank of Travancore is a middle-management grade scale II branch. The management of such branches have no authority to make permanent or temporary appointments. From his own admission it can be seen that he worked during the years 1991-92 and 1993 only on daily wages. This itself is proof to show that his engagement was intermittent and casual in nature. Prior to 25-7-1992 he was paid Rs. 20/- a day and thereafter Rs. 25/- per day for the days on which he was engaged as casual labourer. Since there was no need for a casual worker, he was not engaged after 29-6-1993. A casual labourer for irregular and discontinuous periods on daily cooly basis is not entitled to get his name included in the permanent rolls and the wages paid to him are commensurate with the work done by him. Having accepted the engagement on agreed rate, he cannot be heard to make such claims.

5. One Sri T. Balachandran, one of the two peons in the Peringathur branch was placed under suspension on 20-4-1991 pending enquiry and his suspension was revoked on 29-6-1993 and was reinstated in service and was transferred to another branch. His substitute assumed charge on 30-6-1993 between 20-4-1991 and 29-6-1993 Sri Jayachandran, the worker herein was engaged, off and on, as a casual worker on daily cooly basis to meet the exigencies that arose on account of the suspension of Sri Balachandran. Each day's engagement was separate engagement ending with the end of the day. Even prior to the suspension of Mr. Balachandran, Sri Jayachandran had worked as casual labourer in the branch on 26-9-1990, 4-10-1990 and on one day in 1991. He was not engaged to do any regular work connecting with the banking, but only work of casual nature. In the calendar year 1990-91 he worked as a casual labourer for a total of 166 days only and not 240 days as claimed by him. Infact he had never worked for 240 days during any one of the years mentioned in the claim statement. Even if he worked for 240 days, a casual worker is not entitled to regularisation in any post, much less in non-existent post. Automatic permanency, as claimed by the worker is unknown to law. There was no denial of employment or termination but was only discontinuance of a casual engagement. The management has not made any fresh appointment as alleged, in the

place of Jayachandran. The question of vacancy at the Peringathur branch did not arise as the suspended employee Sri Balachandran was reinstated in service. Since the service of Sri Balachandran at that branch was not found advisable he was transferred from there and in his place Sri Madhusudhakaran was posted. It was not at all replacement of the worker herein who was only a casual labourer. The claim of the worker that the reason for his termination was his demand for statutory benefits and regularisation, is not at all correct. Therefore, the management prays to accept its contentions and to pass an award rejecting the claims of the workman.

6. In the rejoinder, all the averments in the claim statement are repeated by the worker. It is averred that the records in the possession of the management would go to show that the workman had completed 240 days continuous service during the span of one year and that therefore he automatically became permanent without any formal order issued by the management. The entire contentions raised by the management in the reply statement are untenable and against the provisions of law. The allegation that a certificate was obtained under false pretext is absolutely incorrect. The certificate was infact issued only because the workman was working in the branch. There are documents such as vouchers, charges register etc. available in the branch to show the actual length of service and the number of days the workman had worked in the Peringathur branch. The workman has been kept out of employment only due to the illegal actions and omissions on the part of the management. It is prayed to reject the illegal contentions raised by the management and to pass an award in favour of the workman.

7. Based on the rival contentions raised from both sides the points that arise for consideration are :—

(1) Whether the action of the management in terminating the service of Sri K. Jayachandran can be justified?

(2) If not, the relief if any the workman is entitled to?

8. Point No. 1 :—The evidence consists of Exts. W1, Exts. M1 series, M2 series and M3 to M15 and oral testimonies of WW1 and MW1.

9. Ext. W1 is a certificate issued to the worker by MW1 while the latter was working as the Manager of Peringathur branch of the management bank. The certificate is to the effect that Sri K. Jayachandran (the workman) had worked as temporary messenger in the Peringathur branch for a total of 536 days on various occasions during the period from 2-6-1990 to 29-6-1993 and that he was terminated due to filling up of permanent peon vacancy from wait listed candidates. It is significant to note that although the contention of the worker is that he was working as a permanent Peon in the bank, Ext. W1 certificate shows

that he had worked as temporary messenger and that too on various occasions during the period from 2-6-1990 to 29-6-1993. It is unknown whether Peon and Messenger are of the same grade. However, it can be gathered from Ext. W1 that the engagement of the worker was only temporary and that too on various occasions between 2-6-1990 to 29-6-1993. At this juncture, it may be noted that MW1 who issued the certificate would volunteer before court at the time of his examination as MW1 as follows :—

മുൻപിരിക്കട്ടെ കൊടുത്തത് എനിക്ക് അധികാരമില്ലാത്തതാണ്. അതിന് എനിക്കതിരെ

നടപടിമുൻപാടി. എന്റെ പ്രമോഷൻ ഹിർദ്ദ്യ - ഹേർഡ് ചെർട്ട്.

The above said admission of MW1 *prima-facie* shows that Ext. W1 cannot be said to be a certificate issued properly and therefore cannot be given any legal sanctity. That apart MW1 has categorically deposed that such a certificate was issued by him for the sole purpose of producing the same in the Employment Exchange and that too as requested by the worker. To a specific question put to MW1. It is answered by him that the worker has not worked continuously between 2-6-1990 to 29-6-1993. As Ext. W1 was not issued by a person who is empowered and competent to issue the same and as I mentioned already, Ext. W1 cannot be given any legal sanctity, I hold that Ext. W1 will not confer any right to the workman in his claim for regularisation or reinstatement.

10. Ext. M1 series (96 in number) are vouchers which would only show that the worker herein was paid cooly charges for the services rendered by him, on various dates, in the management bank. None of Ext. M1 series would reveal that the worker had acted as Peon and that he was paid remuneration for his service as Peon. What can be gathered from Ext. M1 series is only that he has been given cooly for some cooly work he has done. that fact is apparent vide receipt dated 26-10-1991 and 2-11-1991. In the receipt dated 26-10-1991 an amount of Rs. 120/- is seen to have been paid as cooly charge to Sri Jayachandran for the work of six days from 21-10-1991 to 26-10-1991 (both days inclusive). Nevertheless it can be seen from the receipt dated 2-11-1991 that cooly charges for 5 days from 25-10-1991 to 28-10-1991 and 2-11-1991 are paid whereas cooly charges for 25-10-1991 and 26-10-1991 are seen paid vide receipt dated 26-10-1991 also. In short, from the above said two receipts it can be seen that cooly charges for 25-10-1991 and 26-10-1991 are paid twice as per the two receipts. If it were the wages for the work as a peon one may find it difficult to believe the same. The only inference, in this context, that can be drawn is that double payments were paid for some days as shown in the above said two receipts, for different works. No explanation is forthcoming from either sides regarding this double payments. In short, Ext. M1 series are

not sufficient in my view to hold or to believe that these receipts indicate the payment of wages for the service rendered by the worker as a peon in any way. Ext. M2 series are the charge registers. A consideration of the same would show that the same also is not helpful in any way to the claims made by the workman. Ext. M3 is the charge-memo issued to Sri T. Balachandran who was a Peon in the bank and who was placed under suspension. Ext. M4 is a staff circular No. 157 of 1986. By the circular the bank Managers and departmental heads are directed to adhere to the instructions given in the matter of appointments of part-time employees including engagement of candidates on casual basis for sweeping works. It says that it is regretted to note that inspite of clear instructions some Managers/departmental heads engaging persons for sweeping work on casual basis without taking steps to appoint a sweeper on permanent basis or engaging persons who do not satisfy the prescribed norms there by causing considerable administrative inconvenience and embarrassment. Thus obviously Ext. M4 is a caution against engaging persons who do not satisfy the prescribed norms of appointment. As has been contended by the management it is unknown whether the worker herein is having the qualification to be appointed or engaged as a Peon. Ext. M5 is another circular which says that even inspite of clear instructions the irregular practicing of engaging casual labourer on daily wage basis is being continued. In this circular it is directed that such practice has to be stopped. Ext. M6 contains details of payment of cooly charges paid to the worker on various periods from 1-1-1990 to 31-12-1993. A moments scrutiny of Ext. M6 would show that the worker has not worked continuously on all the working days, that he had worked only during intermittent days and that what is paid to him is cooly charges for the days he had worked. Ext. M6 is corresponding to Ext. M1 series.

10A. Ext. M7 is the order by which the suspended employee Sri T. Balachandran was reinstated. Ext. M8 is the order by which the above said Balachandran was advised to report for duty at Kannur Main Branch instead of reporting at Peringathur Branch. Ext. M9 is a staff circular intended to bring the fact of a disciplinary action taken against Balachandran. Ext. M10 is a memorandum issued by Chief Manager, Personnel Administration Department to the Assistant Manager, Calicut Zone regarding recruitments of Peons. It says that the appointments of Peons are made by selection by recruitment board. Ext. M11 is the order issued to Madhusudhakaran, which shows that he was provisionally appointed on the basis of his application for appointment and the interview held. It is also mentioned that he will be absorbed subject to production of required certificate. It can be seen from Ext. M11 that appointments as peons in the bank are made by calling for applications and after conducting interview and selection made. Ext. M12 also is with regard to the selection and appointment of peons. Exts. M 13, 14 and

15 are attendance registers in which the name of the worker herein would not find a place. The same is not at all helpful as regard to the claim of the workman.

11. WW1 is the worker himself. It is deposed by him that he had worked in the management bank, Peringathur Branch as peon from 2-6-1990 to 29-6-1993 continuously and that his service was terminated on 29-6-1993 without assigning any reason or complying with the provisions of law. According to him, initially he was paid Rs. 20/- per day which was subsequently enhanced to Rs. 25/- per day and he had thus worked for a total period of 536 days. He proves Ext. W1, the certificate issued to him by the management, and Ext. M1 series the vouchers by which payments were made to him. In the examination in cross, he admits that he went for work to the Peringathur Branch since he was called to do so by one of his relatives who was an employee there. He would swear that he worked therefor one day in March 1991, for 7 days in April and that too as invited by his relative. It is further admitted by him that he went for work on 2-6-1991 also as invited by his relative. It is admitted by him that he was not served with any order of appointment nor has he produced any document showing his qualifications. His evidence shows that he went to work in the bank as he was required to do so by one of his relative and that he was neither given any appointment order nor any direction by any of the authorities of the bank to do the work. It is also revealed from his evidence that he has not produced any scrap of paper before the authorities of the bank showing his qualifications. Thus it is obvious to note that his engagement in the bank was not in accordance with the norms of appointment. MW1 is the present Manager of the Punnad Branch of S.B.T. He was the Branch Manager, Peringathur from 30-5-1991 to June 1994. He proves Ext. M3 the order by which Sri Balachandran who was a peon in the bank was placed under suspension pending enquiry with effect from 13-4-1991. The witness swears about the norms of appointment in the bank. According to him, before appointment the vacancy should be notified, the list of candidates should be sponsored by the Employment Exchange, the candidates in such list will be interviewed by a committee constituted by bank authorities and only the persons who are selected will be appointed as Peons. The witness proves Ext. M4 to M15. As I already mentioned, this witness would admit that he is not empowered to issue any certificate and that Ext. W1 was issued by him without any authority as a result of which some disciplinary proceedings were initiated against him. His evidence reveals that the worker herein had worked in the bank on daily wage basis.

12. It was argued by the learned counsel for the worker that worker herein would come under Section 25(B) (2) (a) for the purpose of calculating his length of service and that therefore, he is entitled to the benefit under section 25F. Thus according to the learned counsel the worker has

been in continuous service for not less than one year under the employer, and his termination is a clear retrenchment and that he was terminated without complying with the provisions of law. The learned counsel for the worker has vehemently argued that on the basis of the decisions in H. D. Singh, Appellant v. Reserve Bank of India and others, Respondent (AIR 1986 S.C. 132), in Bhikku Ram, Petitioner v. The Presiding Officer, Industrial Tribunal Cum-Labour Court, Rohtak, Respondent (1995 Lab. I. C. 2448), and in the State Bank of India, Appellant V. Shri N. Sundara Money, Respondent (AIR 1976 S.C. 1111), the worker is entitled to be reinstated and all other benefits.

13. I shall consider the decisions one after another. In 1986 Supreme Court 132, it is seen that as per appointment letter dated 30-4-1974 the Appellant there in was employed as a Tikkamazdoor with the first respondent, the Reserve Bank of India, and he used to report the bank regularly at 9.30 A. M. for work. It can thus be seen that there was an appointment order in that case. In such a case it was held that termination without observing the provisions in section 25F was retrenchment. In 1995 Lab. I. C. 2448 the petitioner was appointed in the service of the Haryana Handloom Weavers Apex Co-operative Society Ltd. and in that case it was held that the termination of service of a workman who has worked under an employer for 240 days in a period of 12 months preceding the date of termination from service will ordinarily be declared as void if it is found that the employer has violated Section 25(F)(a)(b). In that case also there was specific appointment of the worker. In AIR 1976 Supreme Court 1111. The respondent there in was appointed off and on by the State Bank of India between July 31, 1973 and August 29, 1973. In that case also it was held that the termination is a retrenchment. It is significant to note that in the three above mentioned cases on which reliance is placed by the learned counsel for the worker, there was appointment of the worker to the establishment while in the case at hand there is nothing to show that there was any type of appointment by the authorities concerned. In other words, it is not shown that any appointment order was issued to the worker by any authority. On the other hand, it is obvious to note that from the admission of the worker himself as WW1 it can be seen that he had gone to work in the bank as required by one of his relatives who was an employee in the bank. The worker never whispered in his deposition that he was called by any of the authorities of the bank for doing the work in the establishment.

The question herein whether his engagement in the bank as required by one of his relatives (who was an employee under the bank) can be said to be an appointment in the bank. At this juncture it is very much relevant to note that MW1 has categorically deposed and the documents produced would clearly reveal that there are norms of appointment in the bank as Peons. The norms revealed are that there must be application, there must be

request from the bank to the Employment Exchange, intimating the vacancies of Peons, there must be list of candidates sponsored by the employment exchange and an interview must be conducted by a Board constituted by the bank and that the persons selected through such interview are eligible persons to be appointed as Peons. It is unknown whether the worker herein is having required qualifications to be appointed as a Peon. It is admitted by him that he was not asked to produce any document now has he produced any document showing his qualifications. As in all the three cited cases there was specific appointment, I hold that those decisions are not applicable in the case at hand solely on the reason that there is nothing to show that there is any type of appointment in the case at hand while in the reported cases there were specific appointments.

14. A number of decisions were brought to the notice of this court by the learned counsel for the management to show that a person engaged without complying with the norms of appointment cannot get any right of regularisation or anything under the provisions of law. According to the management, in the instant case there is no appointment order, there is no salary fixed, there is no entry in the attendance register and there is nothing to show that there was any type of appointment. On the other hand, according to the learned counsel, it is even admitted by the worker that his engagement was on daily wage basis. Ext. M1 series specifically show that what was paid are cooly charges and not salary.

15. In *Zakir Hussain v. Engineer-in-Chief, Irrigation Dept. and others*, the Hon'ble High Court of Allahabad [1994 (1) LLJ Page 5] held that

"Regularisation cannot be made as a 'rule of thumb' merely on the basis of completion of certain years of service by an employee. It depends on various facts some of which have been mentioned above, and it is for the employer to decide as to whether, in view of the facts and circumstances of the case, the services of the employees who were appointed on adhoc/daily wage basis should be regularised."

In para 6 it was observed as follows:—

"Question of regularisation of employees, appointed on adhoc or daily wage basis, has been attracting the attention of the courts from time to time and large number of cases laying down law in connection therewith have been decided by the Supreme Court and this Court. It is not necessary to cite all those cases. Position as now stands is that for regularisation of service of an adhoc employee or a daily wagger there must be regular or permanent post and funds must also be available for payment of the salary. That apart, he should be qualified and there must be the necessity, according to the requirement to

the work for retaining him and his work and conduct in the past must also be satisfactory."

In Para 7 of judgment it observed by the Lordship that

"Merely because an employee has worked for two or three years he cannot claim regularisation of service as a matter of right. For regularisation, as mentioned before, there must be both posts and funds and the need for retention of the employee according to the requirement of work."

It is needless to say that in the case at hand no such requirement arises. In *West Bengal Essential Commodities Supply Corporation Ltd. v. Md. Sarif* [(2000(11) LLJ 708)] the Hon'ble High Court of Calcutta observed that

"an adhoc appointee such as the respondent had no right to be regularised unless recruitment rules so specifically provide."

In *Koodaranji Service Co-op. Bank Ltd. v. Lissy* [1993(2) KLT 706] a Division Bench of the Hon'ble High Court of Kerala held that a person who was appointed without complying with the rules can be terminated even without following the provisions of Sections 25F of Industrial Disputes Act. In that case one Lissy was appointed without following the procedure prescribed. Her service was terminated without paying retrenchment compensation. In the judgment of the Division Bench of the Hon'ble High Court it was observed as follows:—

"All retrenchments will result in termination of service of a workman by the employer. But all terminations of service of a workman by the employer will not fall within the definition of retrenchment. A retrenched workman is entitled to re-employment in preference to others when the employer proposes to take into his employ any other person as per the provisions contained in S. 25-H of the Act. This shows that the termination of service of the workman should have been from a post to which he could have been continued. If the post is such that its continuance is no possible, then the termination of service of the workman from that post cannot amount to retrenchment as defined under the Act. In the instant case, the appointment of Smt. Lissy was against statutory rules. As a result of that engagement, there was no legal relationship of master and servant between the bank and Smt. Lissy. Consequent on the coercive action and orders passed by the authorities under the Co-operative Societies Act, Smt. Lissy could not be continued in the employment of the Bank. So, her services had to be terminated. It was in fact so terminated not as a result of any voluntary act of the bank. It was the result of the directives given by the authorities of the Co-operative Department, over which the bank had no control".

In President, Kozhikode District Co-op. Hospital Ltd., Kozhikode v. the Secretary, Kozhikode Vanijya Vyavasaya Mazdoor Sangh, and others (O. P. 14284/1993-A) the Hon'ble High Court of Kerala held after having considered the number of decisions that :

"A person who is irregularly appointed without complying with the rules has no right to that post and he cannot claim that he will be entitled to get that post or he can continue in that post on technical reasons despite the fact that he was not appointed permanently in accordance with the rules."

After having relied on several decisions His Lordship observed that :

"In none of the above decisions, it is stated that irregularly appointed employees against the rules are entitled to any right. Persons appointed through backdoors without complying with the rules and procedures have no right to continue in employment on technical grounds."

In Kerala State Civil Supplies Corporation v. Labour Court [2002 KLT S. N. Case No.138 at page113] it was held as follows:

"Under the Industrial Disputes Act if a person works in an industry continuously for not less than an year such worker can be discontinued only by following the procedure for retrenchment under the Act. That does not mean that every person who completed the said period in an establishment is entitled for reinstatement, continuity and regularisation in service. Regularisation is available only to a person who has been appointed to a post. A person can be said to be appointed to a post only if such appointment is made in accordance with the recruitment rules and such person alone becomes a member of the service. A person engaged on daily wages is not appointed in service as per the recruitment rules and hence not entitled for declaration for reinstatement and continuity of service. In view of the above legal position, it cannot be said that a finding on illegal retrenchment should automatically follow reinstatement with continuity of service. That depends on the facts and circumstances in each case. May be the management, a public sector undertaking in this case, did not adduce any evidence. But that by itself is not reason or justification for the Labour Court to accept the interested version of the worker as such and give a declaration on the status of worker to a person and award the relief of reinstatement with continuity in service. There should be proper evidence regarding employment and denial of employment."

It may be noted that in the present case also there is no proper evidence regarding employment and denial of

employment. Following the discussions I have made above and on the basis of the several decisions of the Hon'ble High Courts and Supreme Court, I hold that the action of the management in terminating the service of Sri K. Jayachandran is perfectly justified. Point No. I is found accordingly.

16. Point No. 2:- Following my finding on Point No.1, I hold that the worker is not entitled to any relief what-so-ever.

17. In the result, an award is Passed holding that the action of the management M/s. State Bank of Travancore, Trivandrum in terminating the service of K. Jayachandran of Peringathur Branch of the management Bank with effect from 20-6-1993 is justified and that the workman is not entitled to any relief.

Dictated to the Confidential Assistant, transcribed by him, revised, corrected and passed by me on the 13th day of December, 2002.

E. D. THANKACHAN, Presiding Officer

APPENDIX :

Witnesses examined on the side of the Worker:-

WWI K. Jayachandran.

Witnesses examined on the side of the Management:-

MWI T. Ramachandran.

Documents marked on the side of the Worker :-

Ext. WI Certificate issued to worker by the Bank Manager on 30-6-1993.

Documents marked on the side of the Management:-

Ext. M1 (Series) .. 96 vouchers.

Ext. M2 (Series).. Charge Registers (3 in number).

Ext. M3 Copy of suspension order dt. 13-4-1991.

Ext. M4 Copy of Circular dt. 26-2-1986 circulated to Branches by SBI.

Ext. M5 Copy of the circular for the year 1988 dt. 3-9-1988.

Ext. M6 Copy of schedule showing the details of pay to worker.

Ext. M7 Copy of Final Order of Disciplinary authority dt. 29-6-92.

Ext. M8 Copy of posting order dt. 29-6-1992 to Kanpur.

Ext. M9 Copy of Circular showing reinstatement issued to all branches dt. 12-8-1992.

Ext. M10 Copy of Selection list of Peons dt. 24-6-1993.

Ext. M11 Copy of Model format dt. 26-6-1993.

Ext. M12 Posting Order dt. 26-6-1993.

Ext. M13 Attendance register kept in

Ext. M14 Peringathoor branch for the period

M1. 15 } from 1-11-1989 to September 1994.

नई दिल्ली, 11 फरवरी, 2003

का. आ. 806.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 37/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/499/2000-आईआर(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 806.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 37/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/499/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

LUCKNOW

PRESENT

RUDRESH KUMAR

PRESIDING OFFICER

I.D. No. 37/2001

Ref. No. L-40012/499/2000/IR (D.U.) dated 1-2-2001

BETWEEN

Sh. Gautam Prajapati S/o Daya Ram Prajapati,
Vill. Arazi Basti, Post. Sadar, Azamgarh (UP) 276001

AND

The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/499/2000/IR (DU) Dated 1-2-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Gautam Prajapati S/o Daya Ram Prajapati, Vill. Arazi Basti, Post. Sadar, Azamgarh (UP), 276001 and the General Manager,

Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under :

“Whether the action of the Management of Telecom Deptt. in terminating the services of Sh. Gautam Prajapati w.e.f. 1-6-99 is justified ? If not, to what relief the workman is entitled ?”

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-11-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s. Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of Section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s. Security and Protection Services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s. Security agency is a broker or the agent of the Telecommunication department. Master and Servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and

Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s. Security and Protection Services at the terms and conditions mutually agreed upon. M/s. security and Protection services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having Registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. M.W.—Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that

nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under Section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others Vs. Steel Authority of India and others reported at 1994 (69)FLR256 and 1999 (81)FLR 1016 Secretary, Haryana State Electricity Board Vs. Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

Lucknow
3-2-2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 807.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध

में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 36/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/498/2000-आईआर(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 807.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/498/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

RUDRESH KUMAR

PRESIDING OFFICER

I.D. No. 36/2001

Ref. No. L-40012/498/2000/IR (D.U.) dated 1-2-2001

BETWEEN

Sh. Chandrabali Ram S/o Ramraj,
Vill. Gosain, Post. Madiyapur Azamgarh (UP) 276001

AND

The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/498/2000/IR (DU) Dated 1-2-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section(1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Chandrabali Ram S/o Ramraj, Vill. Gosain, Post. Madiyapur, Azamgarh (U.P.) 276001 and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under :

"Whether the action of the Management of Telecom Deptt. in terminating the services of Sh. Chandrabali Ram w.e.f. 1-6-99 is justified? If not, to what relief the workman is entitled?"

2. In short, the case of the workman is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-5-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s. Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of Section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s. Security and Protection Services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1.10.96. It is denied that M/s. Security Agency is a broker or the agent of the Telecommunication Department. Master and servant relationship is denied and further the application of Section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s. Security and Protection Services at the terms and conditions mutually agreed upon. M/s. Security and

Protection Services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10.9.96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under Section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the

agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under Section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of Section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others Vs Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

Lucknow

RUDRESH KUMAR, Presiding Officer

3-2-2003

नई दिल्ली, 11 फरवरी, 2003

क्रा. आ. 808.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 14/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/469/2000-आईआर(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 808.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/469/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM-LABOUR COURT**

LUCKNOW

PRESENT

RUDRESH KUMAR

PRESIDING OFFICER

I.D. No. 14/2001

Ref. No. L-40012/469/2000/IR (D.U.) dated 18-1-2001

BETWEEN

**Sh. Ram Vijay Yadav S/o Dil Ram Yadav,
Vill. Fatehpur, Post : Nasiruddinpur, Azamgarh (UP)**

AND

**The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001**

AWARD

By order No. L-40012/469/2000/IR (DU) Dated: 18-1-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Ram Vijai Yadav S/o Dil Ram Yadav, Vill. Fatehpur, Post : Nasiruddinpur, Azamgarh (UP), and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under :

"Whether the action of the Management of Telecom Deptt. in terminating the services of Sh. Ram Vijai Yadav w.e.f. 1-6-99 is justified? If not, to what relief the workman is entitled?"

2. In short, the case of the workman, Ram Vijai Yadav is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 25-8-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated

w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s Security and Protection services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s Security agency is a broker or the agent of the Telecommunication department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s Security and Protection Services at the terms and conditions mutually agreed upon. M/s security and Protection services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in

the agreement deed dated 10.9.96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets of Mubarkpur, Telecom Department, Azamgarh from January 1998 to December, 1998. These attendance sheets were verified by Jr. Telecom Officer, Mubarakpur, Azamgarh. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28.8.2000 is also filed to show extension of the agreement dated 10-9-96 upto 9.9.97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM. Telecommunication Department was examined. The management also filed copy of the attendance sheets from April, 98 onward till April, 99.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of Ram Vijai Yadav with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was secured through the contractor by agreement dated 10-9-96 which expired on 31.10.97 on expiry of extension period. The working

period from 1-11-97 till 31.5.99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others Vs Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

Lucknow RUDRESH KUMAR, Presiding Officer

3-1-2003

नई दिल्ली, 11 फरवरी, 2003

का. आ. 809.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 41/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/503/2000-आईआर(डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 809.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 41/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/503/2000-IR (DU)]

KULDIP RAI VERMA, Desk Office

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

Rudresh Kumar,

Presiding Officer

I.D. No. 41/2001

Ref. No. L-40012/503/2000/IR (DU) dated 1-2-2001

BETWEEN

Sh. Akhilesh Rai S/o Ram Pyare Rai,
Vill. Chauki Bujurg, Post Tarauka, Azamgarh
(UP) 276001

AND

The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/503/2000/IR (DU) Dated 1-2-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Akhilesh Rai S/o Ram Pyare Rai, Vill. Chauki Bujurg, Post Tarauka, Azamgarh (UP) 276001 and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under :

"Whether the action of the Management of Telecom Deptt. in terminating the services of Sh. Akhilesh Rai w.e.f. 1-6-99 is justified? If not, to what relief the workman is entitled?"

2. In short, the case of the workman is that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-4-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999;

that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s. Security and Protection Services, was not a registered licensee contractor; that throughout his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation is contrary to provisions of Section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s. Security and Protection Services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s. Security Agency is a broker or the agent of the Telecommunication department. Master and servant relationship is denied and further the application of Section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big-telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s. Security and Protection Services at the terms and conditions mutually agreed upon. M/s. security and Protection Services, Varanasi (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in

the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under Section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW—Jawahar Lal admitted working of the workman with the Telecommunication Department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the

department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under Section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of Section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman was thus an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and Others Vs. Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016, Secretary, Haryana State Electricity Board Vs. Suresh and Others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

Lucknow RUDRESH KUMAR, Presiding Officer
3-1-2003

नई दिल्ली, 11 फरवरी, 2003

का. आ. 810.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 40/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/502/2000-आई आर(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 810.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 40/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/502/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM- LABOUR COURT
LUCKNOW**

PRESENT :

Rudresh Kumar

Presiding Officer

I.D. No. 40/2001

Ref. No.: L-40012/502/2000/IR (DU) Dated:
1-2-2001

BETWEEN

Sh. Akhilendra Yadav S/o Maniram Yadav,

Vill. Kuswan, PO: Chita Mohammadpur,
Azamgarh (UP) 276001

AND

The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001

AWARD

By Order No. L-40012/502/2000/IR (DU) Dated : 1-2-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Akhilendra Yadav S/o Maniram Yadav, Vill. Kuswan, PO: Chita Mohammadpur, Azamgarh (UP) 276001 and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under:

"Whether the Action of the Management Telecom Deptt. in terminating the services of Sh. Akhilendra Yadav w.e.f. 1-6-99 is justified? If not, to what relief the workman is entitled?"

2. In short, the case of the workman, is, that he was initially appointed as security guard with the

Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-9-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the Telecom Department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication, Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s Security and Protection services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s Security agency is a broker or the agent of the Telecommunication Department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s Security and Protection Services at the terms and

conditions mutually agreed upon M/s security and Protection services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the Telecom Department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the Telecommunication Department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R. K. Panda and others Vs Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

Lucknow RUDRESH KUMAR, Presiding Officer
31-1-2003

नई दिल्ली, 11 फरवरी, 2003

का. आ. 811.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण

लखनऊ के पंचाट (संदर्भ संख्या 21/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/472/2000-आईआर(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 811.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 21/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/472/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM- LABOUR COURT
LUCKNOW**

**PRESENT
RUDRESH KUMAR
PRESIDING OFFICER**

I.D. No. 21/2001

Ref. No. L-40012/472/2000/IR (DU) Dated: 18-1-2001

BETWEEN

Sh. Ram Nandan S/o Sh. Bansi,
Vill. Banwan, Post : Bisnwan,
Azamgarh (UP)

AND

The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/472/2000/IR (DU) Dated: 18-1-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Ram Nandan S/o Sh. Bansi, Vill. Banwan, Post: Bisnwan, Azamgarh (UP) and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under:

**"WHETHER THE ACTION OF THE
MANAGEMENT OF TELECOM DEPTT. IN
TERMINATING THE SERVICES OF SH. RAM**

**NANDAN W.E.F. 1.6.99 IS JUSTIFIED? IF NOT
TO WHAT RELIEF THE WORKMAN IS
ENTITLED?"**

2 In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-12-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s Security and Protection Services, Varanasi and the General Manager (East), Varanasi, on 10.9.96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s Security Agency is a broker or the agent of the Telecommunication Department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department

had made provisions for the same. They entered into contract with M/s Security and Protection Services at the terms and conditions mutually agreed upon. M/s Security and Protection Services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10.9.96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of Section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others Vs Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW RUDRESH KUMAR, Presiding Officer
31-1-2003

नई दिल्ली, 11 फरवरी, 2003

का. आ. 812.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 22/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/473/2000-आईआर(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 812.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/473/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
LUCKNOW**

**PRESENT
RUDRESH KUMAR
PRESIDING OFFICER**

I.D. No. 22/2001

Ref. No: L-40012/473/2000/IR (DU) Dated: 18-1-2001

BETWEEN

Sh. Shiv Shanker Yadav S/o Sh. Kasai,
Vill. Kiolari Khurd, Post : Koilari Bujurg,
Azamgarh (UP)

AND

The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/473/2000/IR (DU) Dated: 18-1-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Shiv Shanker Yadav S/o Sh. Kasai, Vill; Koilari Khurd, Post: Koilari Bujurg, Azamgarh (UP) and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under:

"WHETHER THE ACTION OF THE MANAGEMENT OF TELECOM DEPTT. IN TERMINATING THE SERVICES OF SH. SHIV SHANKER YADAV W.E.F. 1.6.99 IS JUSTIFIED? IF NOT, TO WHAT RELIEF THE WORKMAN IS ENTITLED?"

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-10-96

and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve catendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s Security and Protection services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s Security agency is a broker or the agent of the Telecommunication Department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s Security and Protection Services at the terms and conditions mutually agreed upon. M/s Security and

Protection Services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the Telecom Department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of Section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and Others Vs Steel Authority of India and Others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs Suresh and Others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW RUDRESH KUMAR, Presiding Officer
31-1-2003

नई दिल्ली, 11 फरवरी, 2003

का. आ. 813.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण

लखनऊ के पंचायत (संदर्भ संख्या 20/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/471/2000-आई आर(डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 813.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 20/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/471/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM- LABOUR COURT
LUCKNOW**

PRESENT

**RUDRESH KUMAR
PRESIDING OFFICER**

I.D. No. 20/2001

Ref. No: L-40012/471/2000/IR (DU) Dated: 18-1-2001

BETWEEN

Sh. Toofani S/o Sh. Dalsingar,

Vill. Kharika, PO : Rani Ki Sarai,
Azamgarh (UP)

AND

The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/471/2000/IR (DU) Dated: 18-1-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Toofani S/o Sh. Dalsingar, Vill. Kharika, PO: Rani Ki Sarai, Azamgarh (UP) and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under:

**"WHETHER THE ACTION OF THE
MANAGEMENT OF TELECOM DEPTT. IN
TERMINATING THE SERVICES OF SH. TOOFANI**

**W.E.F. 1.6.99 IS JUSTIFIED? IF NOT, TO WHAT
RELIEF THE WORKMAN IS ENTITLED?"**

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-8-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s Security and Protection services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s Security agency is a broker or the agent of the Telecommunication department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into

contract with M/s Security and Protection Services at the terms and conditions mutually agreed upon. M/s security and Protection services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S. N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24.4.96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10.9.96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others Vs Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW RUDRESH KUMAR Presiding Officer
31-1-2003

नई दिल्ली, 11 फरवरी, 2003

का. आ. 814.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 18/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/465/2000-आई आर(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 814.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/465/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM- LABOUR COURT
LUCKNOW**

PRESENT:

RUDRESH KUMAR PRESIDING OFFICER

I.D. No. 18/2001

Ref. No: L-40012/465/2000/IR (DU) Dated: 18-1-2001

BETWEEN

Sh. Jagdish Singh S/o Ram Uagarh Singh,

Vill. & PO : Neohala,
Azamgarh (UP)

AND

The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/465/2000/IR (DU) Dated: 18-1-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Jagdish Singh S/o Ram Uagarh Singh, Vill. & PO: Neohala, Azamgarh (UP) and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under:

**"WHETHER THE ACTION OF THE
MANAGEMENT OF TELECOM DEPTT. IN
TERMINATING THE SERVICES OF SH. JAGDISH
SINGH W.E.F. 1-6-99 IS JUSTIFIED? IF NOT, TO
WHAT RELIEF THE WORKMAN IS ENTITLED?"**

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-1-96 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999;

that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s Security and Protection services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s Security agency is a broker or the agent of the Telecommunication department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s Security and Protection Services at the terms and conditions mutually agreed upon. M/s security and Protection services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour commissioner, having registration No. 21/378/94-95 (extended from time to time).

It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman

was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others Vs Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW RUDRESH KUMAR, Presiding Officer
31-1-2003

नई दिल्ली, 11 फरवरी, 2003

का. आ. 815.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 19/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/470/2000-आई आर(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 815.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 19/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/470/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
LUCKNOW**

**PRESENT
RUDRESH KUMAR
PRESIDING OFFICER**

I.D. No. 19/2001

Ref. No: L-40012/470/2000/IR (DU) Dated: 18-1-2001

BETWEEN

Sh. Chandra Prakash Yadav S/o Jagadhari,

Vill. Koilari Khurd, PO : Koilari Bujurg,
Azamgarh (UP)

AND

The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/470/2000/IR (DU) Dated: 18-1-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Chandra Prakash Yadav S/o Jagadhari, Vill. Koilari Khurd, PO: Koilari Bujurg, Azamgarh (UP) and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under:

**"WHETHER THE ACTION OF THE
MANAGEMENT OF TELECOM DEPTT. IN
TERMINATING THE SERVICES OF SH.
CHANDRA PRAKASH YADAV W.E.F. 1.6.99 IS
JUSTIFIED? IF NOT, TO WHAT RELIEF THE
WORKMAN IS ENTITLED?"**

2. In short, the case of the workman, is that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-3-97 and since then was performing his duties with utmost devotion and

sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M. A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s Security and Protection services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract. The workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s Security agency is a broker or the agent of the Telecommunication Department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s Security and Protection Services at the terms and conditions mutually agreed upon. M/s security and Protection services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply

security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of order dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the

department and the workman during above said period. The workman tendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others V/s Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board V/s Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW RUDRESH KUMAR Presiding Officer

31-1-2003

नई दिल्ली, 11 फरवरी, 2003

का. आ. 816.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 17/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/466/2000-आई आर(डीयू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 816.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom. Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/466/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL -CUM- LABOUR COURT
LUCKNOW

PRESENT:

RUDRESH KUMAR
PRESIDING OFFICER

I.D. No. 17/2001

Ref. No: L-40012/466/2000/IR (DU) Dated:
18-1-2001

BETWEEN

Sh. Shaukat Ali S/o Mukhtar Ali,

Vill. Koilari Khurd, PO : Koilari Bujurg,
Azamgarh (U.P.)

AND

The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/466/2000/IR (DU) Dated: 18-1-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this Industrial Dispute between Sh. Shaukat Ali S/o Mukhtar Ali, Vill-Koilari Khurd, PO: Koilari Bujurg, Azamgarh (U.P.) and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under:

“WHETHER THE ACTION OF THE MANAGEMENT OF TELECOM DEPTT. IN TERMINATING THE SERVICES OF SH. SHAUKAT ALI W.E.F. 1.6.99 IS JUSTIFIED? IF NOT, TO WHAT RELIEF THE WORKMAN IS ENTITLED?”

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-3-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of Section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s Security and Protection Services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said Security Services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s Security agency is a broker or the agent of the Telecommunication department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication

Department had made provisions for the same. They entered into contract with M/s Security and Protection Services at the terms and conditions mutually agreed upon. M/s Security and Protection Services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S. N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under Section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in

nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of Section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and Others Vs Steel Authority of India and Others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs Suresh and Others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW RUDRESH KUMAR, Presiding Officer
31-1-2003

नई दिल्ली, 11 फरवरी, 2003

का. आ. 817.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ, के पंचाट (संदर्भ संख्या 15/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/468/2000-आई आर(डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 817.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 15/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-02-2003.

[No. L-40012/468/2000-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT:

Rudresh Kumar, Presiding Officer

I. D. No. 15/2001

Ref No L-40012/468/2000/IR (DU) Dated : 18-1-2001

BETWEEN

Sh. Ram Saran S/o Nand Ram,
Vill-Wasi Japti Mafi, Post-Kauriya Terhi, Azamgarh (UP)

AND

The General Manager, Telecom Department,
Varanasi East, Varanasi (U.P.) 221001

AWARD

By Order No. L-40012/468/2000/IR (DU) Dated 18-1-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Ram Saran S/o Nand Ram, Vill-Wasi Japti Mafi, Post-Kauriya Terhi, Azamgarh (UP) and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under :

“Whether the action of the management of Telecom Deptt. in terminating the services of Sh. Ram Saran w.e.f. 1-6-99 is justified? If not, to what relief the workman is entitled?”

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-5-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s. Security and Protection Services, was not a registered licensee contractor; that throughout his association, he worked under control and supervision of the Telecom Department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District, Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s. Security and Protection Services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s. Security Agency is a broker or the agent of the Telecommunication department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these

articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s. Security and Protection Services at the terms and conditions mutually agreed upon. M/s. Security and Protection Services, Varanasi (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the Telecom Department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under Section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW—Jawahar Lal admitted working of the workman with the Telecommunication Department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of

services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under Section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of Section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others Vs. Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016, Secretary, Haryana State Electricity Board Vs. Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW

RUDRESH KUMAR, Presiding Officer

31-1-2003

नई दिल्ली, 11 फरवरी, 2003

का. आ. 818.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सुपरिटेण्डेंट ऑफ पोस्ट आफिस के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय

सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 44/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40011/16/99-आई आर(डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 818.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 44/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Supdt. of Post Offices and their workman, which was received by the Central Government on 11-02-2003.

[No. L-40011/16/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 4th February, 2003

PRESENT : K Karthikeyan, Presiding Officer

INDUSTRIAL DISPUTE NO. 44/2001

(Tamil Nadu State Industrial Tribunal I. D. No. 35/2000)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the workman Sri S. Kannan and the Management of the Superintendent of Post Offices, Department of Post)

BETWEEN

Sri S. Kannan, : I Party/Workman

AND

The Superintendent of Post Offices, Nagapattinam Division, Nagapattinam : II Party/Management

APPEARANCE :

For the Workman : M/s. S. Jothivani & G.V. Kasthuri, K. S. Ravichandran, Advocates

For the Management : Sri K. Sambasivam. Addl. GGSC

The Govt of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub section 2(A) of Section 10 of Industrial Dispute Act, 1947

(14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No L-40011/16/99/IR(DU) dated 18-02-2000.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I. D. No. 35/2000. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I. D. No. 44/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 23-01-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further. The Claim Statement and Counter Statement of the respective parties have been filed before the Tamil Nadu State Industrial Tribunal, when the matter was pending before that Tribunal for adjudication.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on either side, the other material papers on record, after hearing the arguments advanced by the learned counsel for I Party/ Workman and the written arguments filed by the II Party/ Management and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of Superintendent of Post Offices, Nagapattinam in dismissing of Sri S. Kannan is legal and justified ? If not, to what relief the concerned workman is entitled ?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri S. Kannan (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner was appointed as Branch Post Master at Seshamoolai B.O. account with Tirumarugal SO in the year 1987. The Superintendent of Post Offices, Nagapattinam Division, Nagapattinam is his appointing authority as well as the Disciplinary Authority. The Petitioner served the department faithfully and sincerely and discharged his duties. While working as such, the IPO(C) attached with the Superintendent of Post Offices, Nagapattinam Division carried out cent per cent verification of the accounts of Seshamoolai BO and alleged defalcation

in certain SB accounts and the Superintendent of Post Offices, Nagapattinam Division placed the Petitioner under put off duty on 20-6-92. The charge sheet dated 28-7-93 alleging four articles of charges was issued to the Petitioner stating that while the Petitioner was working as Branch Post Master Seshamoolai received from Sri G. Agoram, the depositor of S.B. account No. 841483 a sum of Rs. 1000/- on 8-1-92, Rs. 1100/- on 29-2-92, Rs. 220/- on 3-4-92 and Rs. 200/- on 2-5-92 for deposit in the said S.B. Account but has failed to bring into account of the said BO on the said dates and that the Petitioner while working as Branch Post Master, Seshamoolai accepted from Smt. Susila, depositor of S.B. account No. 841576 a sum of Rs. 350/- on 18-1-92 and a further sum of Rs. 1000/- on 31-3-92 for deposit in the said S.B. account but has failed to bring into accounts of the BO on the respective dates and that the Petitioner while working as Branch Post Master, Seshamoolai accepted from Smt. S. Jaya, depositor of R. D. Account No. 711377 a sum of Rs. 61.50 on 24-12-91 and a sum of Rs. 30.10 on 27-2-92 for deposit in the said account but failed to bring into account of the BO on the same dates. Thus, the Petitioner failed to observe the provisions of Rule 131(2) of Book of BO Rules and also violated Rule 17 of P & T E.D. Agents (Conduct & Service) Rules, 1964. The postal department cited 28 documents by which the articles of charges framed against him are proposed to be sustain in three articles of charge sheet. The Respondent also cited 17 witnesses by whom the articles of charges are proposed to be sustained. The Petitioner denied the charges. The Respondent Superintendent of Post Offices, Nagapattinam Division, appointed 3 I.Os. one after another. The first officer held several sittings which is reminiscent of star chamber enquiry and finally held that the charges are proved and the Disciplinary Authority dismissed the Petitioner from service by his memo dated 23-7-98. Aggrieved by this order, the Petitioner submitted his revision petition and the Post Master General, Central Region, Trichy without due consideration rejected the petition. The enquiry has been conducted disregarding the rules on the subject and this resulted in denial of reasonable opportunity and the denial of reasonable opportunity is violative of principles of natural justice. The Disciplinary Authority cited 28 documents by which the articles of charges framed are proposed to be sustained. But the along with the charge memo the copies of those documents have not been supplied to the Petitioner. Statements witness have been obtained behind the back of the Petitioner during the preliminary enquiry. These statements have been relied upon by the Enquiry Officer to sustain the charges. Statements given by the depositors have not been recorded in the presence of the Petitioner. The evidence recorded in the fact finding enquiry in the absence of the Petitioner should not be brought on proceedings. The Respondent/Management appointed one Sri G. Kuppusamy as Enquiry Officer. Then they changed the Enquiry Officer and appointed one Sri S. Krishnamurthy as Enquiry Officer.

When Sri S. Krishnamurthy, Sub Divisional Inspector (P) continuing as such and was very much available, the Respondent changed the Enquiry Officer and appointed one Sri R. Swaminathan as Enquiry Officer. This is violation of principles of natural justice. This procedural irregularity made the enquiry as vitiated. The then Enquiry Officer rejected the nomination of Sri N.T. Rajan as defence assistant. Against this the Petitioner appealed to Superintendent of Post Offices, Nagapattinam Division. Sri S. Krishnamurthy, the then I. O. accepted the nomination and permitted Sri N.T. Rajan as defence assistant in this case. The Petitioner perused the listed documents along with the defence assistant on 15-10-96 and thereafter submitted a list of additional documents required by the defence. Nothing was heard on the request for the additional documents from the Enquiry Officer for months together thereafter. The non-supply of additional documents called for has denied reasonable opportunity to the defence and this is violative of the principles of natural justice and this vitiated the whole proceedings. The Enquiry Officer rejected the nomination of Sri N.T. Rajan as defence assistant to the Petitioner and the same was allowed by the Disciplinary Authority later. The Enquiry Officer was changed and when Sri R. Swaminathan was appointed as Enquiry Officer in the middle of the enquiry, he refused to accept the nominated defence assistant and prevented the Petitioner to be assisted by defence assistant of his choice and confidence. The said action of the Enquiry Officer Sri R. Swaminathan is totally illegal. The disciplinary proceedings against the Petitioner has been conducted in a manner in violation of principles of natural justice and in violation of the norms prescribed for conduct of disciplinary proceedings. The Petitioner has been imposed with a major punishment in consequence of illegal disciplinary proceedings conducted and he has been victimised. If at all, the Respondent offered a reasonable opportunity to the Petitioner to conduct a free and fair enquiry, the Petitioner would have proved his innocence. In view of the conduct defunct enquiry contrary to the rules existing, the Petitioner could not be properly participated in the enquiry and proved his innocence. The entire disciplinary proceedings are vitiated in view of the defective conduct of the enquiry. The Petitioner approached the conciliation officer and filed a 2A petition under Industrial Disputes Act, 1947 for initiation of conciliation proceedings. Due to the non-cooperation of the Respondent/Management it ended in failure and on submission of failure of conciliation report, the Ministry has referred this dispute for adjudication by this Tribunal. Hence, it is prayed that this Hon'ble Tribunal may be pleased to pass an award holding that the order of dismissal dated 27-3-98 passed against the Petitioner as illegal and arbitrary and direct the II Party/Management to reinstate the Petitioner as Extra Departmental Branch Post Master, Seshamoolai, BO A/W. Thirumarugal SO, Nagapattinam Division with all attendant service and monetary benefits.

3. The averments in the Counter Statement filed by the II Party/Management Superintendent of Post Offices, Nagapattinam Division, Nagapattinam (hereinafter refers to as Respondent) are briefly as follows: —

The Petitioner who was appointed as Extra Departmental Branch Post Master, Seshamoolai Branch Post Office in account with Tirumarugal SO under Nagapattinam Postal Division w.e.f. 18-4-85 while working as such during the year 1991 and 1992 accepted the cash for credit into S.B. /R.D. accounts on the dates noted against each but did not credit the amounts into the post office accounts, violating the Rules 131(2) & (3) of Book of B.O. Rules, 6th Edition and thereby the Petitioner failed to maintain absolute integrity and devotion to duty under Rule 17 of P & T E.D. Agents (Conduct & Service) Rules, 1964. The total amount of non-credit committed by the Petitioner works out to the tune of Rs.20,799.50 involving 24 savings bank accounts and 13 R.D. accounts. The Petitioner voluntarily credited a sum of Rs.22,604.40 under unclassified receipts into Govt. accounts towards the non-credits committed by him on the dates noted against each at Tirumarugal and Nagapattinam post offices respectively. The Petitioner was placed under put off duty on 20-6-92 and he was proceeded under Rule 8 of P & T E.D. Agents (Conduct & Service) Rules, 1964 by a memo dated 28-7-93 containing three articles of charges. A oral enquiry appointing Sri R. Saminathan, Assistant Superintendent of Post offices, Nagapattinam as Enquiry Officer and Sri Sivaprakasam, Inspector of Post Offices as Presenting Officer was held as envisaged in rules. The Petitioner partially attended the enquiry and thereafter did not attend the enquiry. The Enquiry Officer held all the charges against the Petitioner are proved and submitted his reported 7.4.98. The Disciplinary Authority supplied a copy of the Enquiry Officer's report and the Petitioner submitted the reply letter to the Enquiry Officer's report dated 8.5.94. Then the Disciplinary Authority after giving reasonable opportunity decided the case awarding the penalty of dismissal from service by a memo dated 23-7-98. The Petitioner preferred an appeal before the Post Master General on 30-11-1998 and the same was rejected by a memo dated 10-5-99. A police case under crime No.445/95 under section 449 of IPC at Peralam police station is also still pending against the Petitioner in this regard. The enquiry was conducted providing every opportunity to the Petitioner and nothing is violated as stated by the Petitioner. The Petitioner perused all the original documents along with his defence assistant and copies of the documents were supplied to him during the course of enquiry and therefore, there is no denial of reasonable opportunity to the Petitioner as stated by him. The statements recorded during the preliminary investigation have been filed through the respective witnesses during the course of enquiry and they have been identified by them. The Petitioner was also given opportunity to cross examine the witnesses, as per rules.

Since Sri G.Kuppasamy, the then Assistant Superintendent of Post Offices, Nagapattinam Sub Division was transferred to Thanjavur Division, the Enquiry Officer was changed and Sri S.Krishnamoorthy, Sub Divisional Inspector (P) Karaikkal was appointed as Enquiry Officer. As the official was at that time having two major Rule 14 enquiry cases besides four Rule 8 cases, the Enquiry Officer was relieved from the job and Sri R. Saminathan, ASP, Nagapattinam Sub Division who was having no such enquiry on hand during that period was appointed as Enquiry Officer to facilitate quick finalisation. The relevant rules provide for change of Enquiry Officer in administrative exigencies. Therefore, there is no procedural irregularity in this case and the change of Enquiry Officer will not vitiate the charges. While initially permitting Sri N.T.Rajan as his defence assistant he was residing in Chennai, afterwards as the defence assistant permanently shifted his residence near Pune in Maharashtra State and it was not considered reasonable to allow a person as defence assistant, who is residing in some other State. However, the Petitioner was permitted to have a defence assistant in local or nearby places of his duty as permissible in rules. Though the Petitioner represented 25 additional documents, the Enquiry Officer after careful examination permitted three documents only which were found relevant to the case and these documents were discovered and produced. Therefore, reasonable opportunity was given to the Petitioner and nothing is vitiated. As the instructions contained in the relevant rules, the Petitioner is entitled to engage his defence assistant in the place of his duty or the place where the enquiry is held. In this case, the defence assistant is permanently settled near Pune in Maharashtra and it is not practicably possible to engage such a defence assistant at a distant place. The Petitioner was given every opportunity to engage defence assistant as permissible in the rules. The disciplinary proceedings was conducted after observing the usual formalities and the punishment was imposed after forwarding a copy of the Enquiry Officer's report to the Petitioner and after proper consideration of his reply, the Enquiry Officer's report. The punishment awarded is indeed commensurate to the gravity of the offence committed by him. The Petitioner has committed serious frauds to the tune of Rs.20,799.50 and his continuance in this department will definitely tarnish the image of the department. The punishment awarded to the Petitioner is commensurate to the gravity of the offence committed by him. Hence, it is prayed that this Hon'ble Tribunal may be pleased to pass an award to dismiss the petition.

4. When the matter was taken up for enquiry finally, no one has been examined as a witness on either side. With the consent of the learned counsel on either side, documents filed on either side have been marked as Ex. W1 to W5 and M1 to M12 respectively. Learned counsel for the Petitioner/ Workman has advanced her oral arguments while the learned counsel for the Respondent/Management has filed his written argument.

5. the Point for my consideration is —

“whether the action of the management of Superintendent of Post Offices, Nagapattinam in dismissing of Sri S. Kannan is legal and justified? If not, to what relief the concerned workman is entitled?”

Point :

It is admitted that the I Party/Petitioner Shri S. Kannan was appointed as Extra Departmental Branch Post Master at Seshamoolai Branch Post Office with effect from 18-04-1985 and he was working as such during the year 1991 and 1992, he had accepted cash from the accountholders of Recurring Deposit and Savings Bank Accounts. It is the contention of the Respondent/Management that the concerned workman did not credit the amounts he accepted as cash from the accountholders of Recurring Deposit and Savings Bank Accounts into the post office accounts and thereby he has violated the departmental rules. It is further alleged that the total amount of misappropriation (non-credit committed by the Petitioner Sri S. Kannan) works out to Rs. 20,799.50 involving 24 Savings Bank Accounts and 13 Recurring Deposit Accounts. It is further alleged that the Petitioner voluntarily credited a sum of Rs. 22,604.40 under unclassified receipts into Government accounts towards the non-credits committed by him on the dates noted against each at Tirumarugal and Nagapattinam post offices respectively. The Petitioner was placed under put off duty on 20-06-1992 on the ground that he has committed the said misappropriation. Then the Petitioner was issued memorandum of charges dated 28-07-1993 mentioning three articles of charges. The xerox copy of the same is Ex. M1. The Petitioner partially attended the enquiry and thereafter he did not attend the enquiry. On completion of the enquiry, the Enquiry Officer submitted his report dated 07-04-98. The xerox copy of the same is Ex. M11/W3. Ex. M1 to M10 are the Xerox copies of the documentary evidence let in by the management during the enquiry, which have been marked as M1 to M10 in the enquiry. They are all statements given by the concerned depositors of Savings Bank accounts as well as R. D. accounts and reply given by the Petitioner for those statements. A perusal of the Enquiry Officer report under Ex. M11 clearly shows how the enquiry has been conducted. 13 witnesses have been examined on the side of the Respondent/Management in the enquiry and 33 documents have been marked as Management exhibits. All these oral and documentary evidences have been considered by the Enquiry Officer in detail and also the defence brief dated 24-03-1998, the xerox copy of the same is Ex. W2. The Enquiry Officer has given his finding in his report under Ex. M11/W3 holding that the charges levelled against the Petitioner has been proved. The Disciplinary Authority after furnishing the copy of the Enquiry Officer's report to the Petitioner directed the Petitioner to make his

representation or submission on the Enquiry Officer's report in writing within 15 days of the receipt of the letter enclosing the Enquiry Officer's report. Accordingly the Petitioner has submitted his reply under Ex. W4. After considering that reply of the Petitioner the disciplinary Authority has awarded the penalty of dismissal from service by his order dated 23-7-98 under the original of Ex. W5. Then the Petitioner preferred an appeal to the Post Master General and the xerox copy of the same is Ex. W6 and the Appellate Authority has rejected the appeal by his order dated 10-5-99 and the xerox copy of the same is Ex. W7.

6. The contention of the Petitioner is that enquiry has been conducted disregarding the rules on the subject and this resulted in denial of reasonable opportunity and it is in violation of principles of natural justice. It is his further contention that when the charge memo was supplied to him the copies of the documents referred to in the charge memo has not been supplied to him and thereby a reasonable opportunity was denied to him to put forth his defence effectively. It is also his contention that the statements of Arumugam Chettiar and Sushila, the S.B. accountholders and the statement of Jaya R.D. accountholder were obtained behind his back during the preliminary enquiry have been used against him in the departmental proceedings and they ought not have been used, since they have been recorded in the fact finding enquiry in this absence. It is his further contention that he submitted a list of additional documents required for his defence and the non-supply of additional documents called for denied him a reasonable opportunity to put forth his defence and it is in violation of principles of natural justice and if at all the Respondent/Management offered a reasonable opportunity to the Petitioner by conducting a free and fair enquiry, the Petitioner could have proved his innocence and in view of the conduct of defunct enquiry contrary to the existing rules, the Petitioner could not be properly participated in the enquiry and proved his innocence. Hence the entire disciplinary proceedings are vitiated.

7. These contentions of the Petitioner have been refuted by the Respondent/Management as incorrect and they would allege that the Petitioner perused all the original documents along with his defence assistant and copies of documents were supplied to him during the course of enquiry and that the statements recorded during preliminary investigation have been filed through respective witnesses during the course of enquiry and they have been identified by them and the Petitioner was given an opportunity to cross examine those witnesses as per rules and that the Petitioner was permitted to have the assistance of the defence assistant of his choice. Though at the initial stage it was denied on the ground the defence assistant permanently shifted his residence to Pune in Maharashtra State and it is not practicable under rules to get an assistant from a distant State and the Petitioner was informed by

Enquiry Officer by his letter dated 3-10-97 to nominate any defence assistant with that division or nearby divisions, the Petitioner has not sent any reply to the Enquiry Officer in this regard. Out of the 25 additional documents requested by the Petitioner, the Enquiry Officer after careful examination permitted three documents only which were found relevant to the case and they were produced in the enquiry and hence the averment of the Petitioner that he had denied reasonable opportunity and hence the enquiry is vitiated is wrong and incorrect and that the disciplinary proceedings were conducted after observing the rules and formalities and the punishment awarded by the Disciplinary Authority is commensurate to the gravity of the offence committed by the Petitioner, which is serious loss to the tune of Rs. 20,799.50.

8. It is seen from the available records that in pursuance of the charge memo under Ex. W1 was issued to the Petitioner, a domestic enquiry was conducted by the Respondent/Management. A perusal of the Enquiry Officer's report Ex. W3/M11, clearly shows that sufficient opportunity was given to the Petitioner to defend his case by engaging a defence assistant of his charge. In his brief given as a defence brief to the Enquiry Officer under Ex. W2, the Petitioner has stated that he attended the enquiry initially and later he has not taken part in the enquiry along with his defence assistant, since he was not permitted to engage the same defence assistant Sri N.T. Rajan, though he has shifted his residence permanently to Baramathy in Maharashtra State. The Enquiry Officer has mentioned in his report itself that the case has been prolonged for more than 5 years by the dilatory tactics of the defence he had decided to proceed further as scheduled i.e. examination of prosecution witnesses. It is seen from Enquiry Officer's report that 13 witnesses have been examined and 33 documents have been exhibited on the side of the management. As the Petitioner has not taken part in the enquiry, the witnesses examined on the side of the Respondent/Management has not been cross examined, but the daily order sheets and depositions recorded during the proceedings were despatched to the charged officials on all dates through registered post with acknowledgement due. After conclusion of the enquiry, the Enquiry Officer has intimated the charge sheeted employee to appear before him on 27-2-98 for questioning him about the evidence given by the management witnesses. Even for that the Petitioner has not attended the enquiry. So, the Enquiry Officer has closed the enquiry and after the submission of written brief by Presenting Officer, the Enquiry Officer sent it by his letter dated 14-3-98 to the charge sheeted employee, the Petitioner herein, with a direction to submit his defence brief. Accordingly, the Petitioner also has submitted his defence brief under Ex. W2 dated 24-3-98 requesting the Enquiry Officer to conduct the proceedings *denovo* by giving him an opportunity to cross examine the witnesses who deposed against him with this defence assistant Sri N.T. Rajan.

The Enquiry Officer has analysed the evidence given by Akoram Chettiar, Sushila, and Jaya, who are all the depositors in S. B. Accounts as well as R. D. Accounts in question and has identified their statements they gave before the preliminary investigation officer and also about the other exhibits relied upon the management which they proposed to rely upon to establish the charges levelled against the Petitioner. Apart from that the persons who have signed those statements given by the Petitioner Kannan as well as the depositors as witnesses and Kannan has given those statements in their own handwriting. The other official witnesses were also examined on the side of the management to speak about the entries in the records maintained in the office in respect of the deposits that have been made by the concerned depositors of S.B. accounts and R.D. accounts. On conclusion of the enquiry the Enquiry Officer has analysed both oral and documentary evidence let in before him by the management in proof of all the three articles of charges, and also the admissions made by the concerned workman charge sheeted employee, in his statement given earlier and had arrived at the conclusion that the charges levelled against Article 1 to 3 have been proved by documentary and oral evidence beyond doubt and has stated that the written brief of defence does not contain any valid argument except the repetition of his plea of bias against the Enquiry Officer. From this it is seen that the enquiry has been conducted under Rule 8 of P & T E.D. Agents (Conduct and Service) Rules, 1964 by the Respondent/Management by providing every opportunity to the Petitioner, charge sheeted employee and the Respondent/Management has not denied any reasonable opportunity to the Petitioner in defending the charges before the Enquiry Officer. It is seen from the records that he only remained absent from attending the enquiry in spite of intimations have been given to him at various stages of enquiry. A perusal of the Enquiry Officer's report clearly shows that the disciplinary proceedings had been conducted after observing usual formalities as per rules and by giving sufficient opportunity to the charge sheeted employee to put forth his case effectively. Therefore, it cannot be said that there is any violation of any rules or principles of natural justice by the Respondent/Management in conducting the domestic enquiry. Consequent upon the findings given by the Enquiry Officer in his report, the Petitioner was issued show cause notice by the Disciplinary Authority by furnishing a copy of the enquiry report and calling for his remarks for the report of the Enquiry Officer. The Petitioner has also given his written submissions under Ex. W4 to the Enquiry Officer's report to the Respondent/Disciplinary Authority. The Disciplinary Authority after considering all the aspects inclusive of the remarks given by the Petitioner under Ex. W4 has passed the order of penalty by dismissing the Petitioner from service with immediate effect under Ex. W5. Though the Petitioner has stated in

claim Statement that the enquiry has not been properly conducted against him and the same has been conducted ex-parte, he has not stated in his Claim Statement that the charges levelled against him under three articles of charges are false and he has not committed any misconduct as alleged in those articles of charges. It is the specific contention in the Counter Statement of the Respondent/Management that the Petitioner during the period 1991 and 1992 accepted the cash of credit into the S.B. and R.D. accounts of the depositors to the total value of Rs. 20,799.50 but did not credit the amount into post office account and thereby failed to maintain absolute integrity and devotion to duty as required of him under Rule 17 of P & T E.D. Agents (Conduct and Service) Rules, 1964. It is also mentioned in the Counter Statement of the Respondent/Management that he voluntarily credited a sum of Rs. 22,604.40 under unclassified receipts into Government accounts towards non-credits committed by him on the relevant dates at Tirumarugal and Nagapattinam post offices. This has not been denied by the Petitioner by way of any reply statement to the Counter Statement. In his defence brief also submitted earlier under Ex. W2, W4 and his appeal petition to the Post Master General, the Petitioner has not stated that he has not committed the misconduct as alleged in the three articles of charges and the alleged misconducts are all false and he has not committed any misappropriation of depositors money. He has also not chosen to let in any oral evidence before this Tribunal to prove his alleged innocence. It is also not his contention that he has not voluntarily credited as sum of Rs. 22,604.40 under unclassified receipts into Government accounts towards non-credits committed by him. From all these materials available in this case, it is seen that the Petitioner has committed a serious fraud to the tune of Rs. 20,799.50 and hence, as contended by the Respondent/Management his continuance in this department will definitely tarnish the image of the department. So, the Disciplinary Authority had imposed the punishment of removing him from service as a proper punishment to the Petitioner for the proved misconduct. It cannot be said that the punishment awarded is not commensurate with the gravity of the offence committed by the Petitioner. Hence, this Tribunal has no reason to interfere with the findings of the Enquiry Officer as well as the decision of the Disciplinary Authority in awarding punishment to the Petitioner for the proved misconduct of the Petitioner. On the basis of these findings, it can be concluded that the punishment awarded to the Petitioner by the Disciplinary Authority is legal and justified and the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

9. In the result, an Award is passed holding that the concerned workman Sri S. Kannan is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 4th February, 2003).

K. KARTHIKEYAN, Presiding Officer

Witness Examined :—

On either side : None

Documents Exhibited :—

For the I Party/Workman :—

Ex. No.	Date	Description
W1	28-07-93	Xerox copy of the charge memo issued to Petitioner. Including the concerned workmen.
W2	24-03-98	Xerox copy of the defence brief submitted to Enquiry Officer.
W3	22-04-98	Xerox copy of the letter from Superintendent of Post Offices to Petitioner enclosing the report of Enquiry Officer.
W4	08-05-98	Xerox copy of the representation submitted by Petitioner to Superintendent of Post Offices, Nagapattinam.
W5	23-07-98	Xerox copy of the order of dismissal passed by Superintendent of Post Offices, Nagapattinam.
W6	18-11-98	Xerox copy of the appeal preferred by Petitioner.
W7	10-05-99	Xerox copy of the order of Post Master General, Central Region against the Petitioner.

For the II Party/Management :—

Ex. No.	Date	Description	
M1 series (1)	Nil	Xerox copy of the pass book A/c. No. 841482.	
	(2)	Nil	Xerox copy of the statement given by Sri Agoram.
	(3)	Nil	Xerox copy of the statement given by Sri S. Kannan.
M2 Series (1)	Nil	Xerox copy of the pass book A/c. No. 841576.	
	(2)	Nil	Xerox copy of the statement given by Smt. S. Suseela.
	(3)	Nil	Xerox copy of the statement given by Sri S. Kannan.
M3 Series		Xerox copy of the deposition of Sri G. Agoram.	

M4 Series Nil	Xerox copy of the pass book of S.B. Account No. 841603 and the statement given by account holder.
M5 Series Nil	Xerox copy of the pass book of S.B. Account No. 841572 and the statement given by account holder.
M6 Series Nil	Xerox copy of the pass book of S.B. Account No. 842687 and the statement given by account holder.
M7 Series Nil	Xerox copy of the pass book of S.B. Account No. 842448 and the statement given by account holder.
M8 Series Nil	Xerox copy of the pass book of R.D. No. 711220 and the statement given by account holder.
M9 Series Nil	Xerox copy of the pass book of R.D. No. 711000 and the statement given by account holder.
M10 Series Nil	Xerox copy of the pass book for R.D. A/c. No. 710636 and the statement given by account holder.
M11 07-04-98	Xerox copy of the Enquiry Officer's report.

नई दिल्ली, 11 फरवरी, 2003

का.आ. 819.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सुपरिन्टेन्डेन्ट ऑफ पोस्ट ऑफिसों के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 593/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40011/9/2000-आई आर (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 819.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 593/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Supdt. of Post Offices and their workman, which was received by the Central Government on 11-02-2003.

[No. L-40011/9/2000-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 19th December, 2002

Present : K. KARTHIKEYAN,

Presiding Officer

INDUSTRIAL DISPUTE NO. 593/2001

(CGIT Bangalore C.R.No.50/2000)

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri P. Shanmugam and the Management of Superintendent of Post Offices, Pudukottai Division, Pudukottai.]

BETWEEN

Sri P. Shanmugam : I Party/Workman

AND

The Superintendent of Post Offices, Pudukottai : II Party/Management Division, Pudukottai.

Appearance :

For the Workman : Mr. S. Raveendran, Advocate

For the Management: Mr. K. Siyajotlu, Addl. CGSC.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-40011/9/2000/IR(DU) dated 30-06-2000.

This reference has been made earlier to the CGIT-cum-Labour Court, Bangalore, where the same was taken on file as C.R. No.50/2000. When the matter was pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case from the file of Central Govt. Industrial Tribunal-cum-Labour Court, Bangalore to this Tribunal for adjudication. On receipt of records from that CGIT-cum-Labour Court, Bangalore, this case has been taken on file as I.D. No 593/2001 and notices were sent to the parties to the dispute, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 20-07-2001 and to file their respective Claim Statement and Counter Statement and to prosecute this case further. Accordingly, the learned counsel on either side on record along with their respective parties have appeared and prosecuted this case further

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on the side of the II Party/Management alone, the other material papers on record, the written arguments filed by the learned counsel for II Party/Management alone and this matter having stood over till this date for consideration, this Tribunal has passed on merits, the following: -

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of Superintendent of Post Offices, Pudukottai Division, Pudukottai in removing Sri P. Shanmugam from services w.e.f. 31-03-1999 is legal and justified? If not, to what relief workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Workman Sri P. Shanmugam (hereinafter refers to as Petitioner) are briefly as follows:-

The Petitioner was appointed as E.D. Branch Post Master, Varpattu BO under Melasivapuri SO by the Superintendent of Post Offices, Pudukottai. He is the appointing authority as well as Disciplinary Authority. The Post Master General, Central Region is the Head of Circle and revisional authority. The Petitioner while working so, the Superintendent of Post Offices, Pudukottai issued a charge memo dated 13-3-1998 alleging that the petitioner while working as Branch Post Master Varpattu BO failed to pay closure amount of Rs. 4129.65 to the depositor of three years Thirupattur Division account No. 117004 of Smt. K. Manimegalai on the date of closure on 23-4-97. Therefore, the Superintendent of Post Offices, Pudukottai alleged that the Petitioner violated the provisions of Rules, 136 & 145 for Branch Offices and thereby failed to maintain absolute integrity as required by him under Rule 17 of P & TED agents (Conduct & Service) Rules, 1964. In support of the charges the Superintendent of Post Offices, Pudukottai cited 12 documents by which the articles of charge framed against the Petitioner in Annexure III of chargesheet and also cited 4 witnesses by which the articles of charge framed against the Petitioner in Annexure IV of the chargesheet. The Petitioner denied the charges framed against him and as such the Superintendent of Post Offices, Pudukottai appointed Sri G. K. Devaraj, ASP* (N) Pudukottai who is immediately subordinate to him by memo dated 21-10-98 and also appointed one R. Jayapal, Sub Divisional Inspector (P) Alangudi Sub Division as the Presenting Officer to present the case on behalf of the Disciplinary Authority. The Enquiry Officer conducted several sittings and finally concluded that the charges levelled have been proved. Though the charges levelled against the Petitioner has not been proved by evidence adduced during the enquiry, the Enquiry Officer analysed the case on hyper technical grounds and concluded that the charge has been proved.

The Disciplinary Authority has also considered the case on hyper technical grounds over looking the fact that the charges have not been proved during the enquiry, concluded that the charges have been proved and imposed the cruel punishment of removal from service. Aggrieved by the termination the Petitioner submitted petition for conciliation. The enquiry has not been conducted in a fair manner and according to law which resulted in failure of justice and also violated the principles of natural justice. Though the Superintendent of Post Offices, Pudukottai sent the chargesheet to the Petitioner and called for his defence statement within ten days from the date of receipt of chargesheet, he has not sent the copies of the documents along with the chargesheet and the procedure which was required for holding departmental enquiry was not followed. The stage of defence starts from the time when the chargesheet is served on the delinquent employee and he is asked to furnish explanation. This explanation will be based on the documents or statements of witnesses which have been relied on by the department. It is, therefore, necessary that the copies of documents and statements must be made available to the chargesheeted employee along with chargesheet. In this case, explanation about the charge is sought within 10 days without furnishing such copies and it is denial of reasonable opportunity and violative of principles of natural justice and it vitiated the whole proceedings. The Enquiry Officer admitted in admissible evidence as evidence during the enquiry. The Superintendent of Post Offices, Pudukottai has cited the statement of Smt. K. Manimegalai, Peyyamanipatti dated 11-8-97 before the Sub Divisional Inspector (P) Pudukottai South Sub Division. It was obtained by the Investigation Officer behind the back of the Petitioner during preliminary enquiry and it is inadmissible evidence. The decision taken by Ministry of Home Affairs in F.No. 39.12.60-Est(A) states that the evidence of witnesses proposed to be used against the Govt. servant in a departmental proceedings should be recorded in his presence. The evidence recorded in the fact finding enquiry in the absence of Govt. servant concerned should not be brought on the proceeding. Contrary to the rules on the subject, the Enquiry Officer admitted the inadmissible evidence during the enquiry and based his findings on the basis of the statement which was obtained behind the back of the Petitioner and this resulted in failure of justice. This is also violation of principles of natural justice and which vitiated the whole proceedings. Superintendent of Post Offices, Pudukottai made positive opinion about the guilt of the Petitioner at the state of issuing the chargesheet and ordered for an enquiry through the Enquiry Officer in order to disposal the positive conclusion arrived at by him. The Superintendent of Post Offices, Pudukottai arrived at a pre-determined conclusion about the guilt of the accused at the state of issuing that chargesheet and he appointed his immediate subordinate as the Enquiry Officer. Therefore, the appointment of Enquiry Officer is in violation of Rule 5(1)(b) of P & T Man

Vol. III. Therefore, the Enquiry Officer acted without jurisdiction and the whole proceedings conducted by him is illegal. This is a case of no evidence. The main plank of the charges levelled against the Petitioner is that he has belatedly paid the matured amount of TD account of Smt. Manimegalai but during the enquiry, the departmental witnesses Smt. Manimegalai has stated before the Enquiry Officer that after signing in the SB voucher Smt. Manimegalai directed the Petitioner to handover the money to her mother. The Superintendent of Post Offices, Pudukottai has not produced the mother of depositor viz. Smt. Manimegalai to depose whether the amount has been given on the due date or not. The failure to produce the important and essential witness by the Respondent made the whole enquiry as vitiated. The Superintendent of Post Offices, Pudukottai concluded the case on the basis of the suspicion and supposition without any actual proof. This is violation of principles of natural justice. The punishment imposed is very severe and disproportionate to the gravity of the charges. Hence, it is prayed that this Hon'ble Tribunal may be pleased to hold the enquiry conducted by the II Party/Management as illegal, arbitrary and against the principles of natural justice.

3. The averments in the Counter Statement filed by the II Party/Management Superintendent of Post Offices, Pudukottai (hereinafter refers to as Respondent) are briefly as follows :—

The Petitioner was appointed as Branch Post Master, Varpattu Branch Post Office in account with Melasivapuri Sub Post Office on 11-6-86 by the Respondent who is the appointing authority as well as the Disciplinary Authority. While the Petitioner was working as Branch Post Master, Varpattu Branch BO two complaint letters one dated 18-7-97 and 21-7-97 were received from one Smt. K. Manimegalai, depositor of three year TD account No. 117004 standing at Varpattu BO alleging non-payment of the maturity amount to her on closure of the account. Enquiry made on the complaints revealed that the Petitioner obtained the signature of the depositor on 23-4-97 itself in the acquittance portion of withdrawal form and charged the amount as TD withdrawal in post office accounts on 23-4-97 itself but did not actually pay the amount to the depositor. It was further found that the maturity amount of Rs. 4129.65 was misappropriated by the Petitioner from 23-4-97 to 7-8-97 and paid to the depositor with interest by the Petitioner in the presence of investigating officer. Sri V. Manoharan, Sub Divisional Inspector (P) Pudukottai South Sub Division, Pudukottai. The Petitioner thus violated the provisions of Rule 136 and 145 of Branch Offices (6th edition) and thereby failed to maintain absolute integrity and devotion to duty contravening rule 17 of P & T ED Agents (Conduct & Service) Rules, 1964 and he was charge sheeted under Rule 8 of P & T ED agents (C & S) Rules, 1964 by a memo dated 13-3-98 by the Respondent. In support of the charges, 12 documents were listed in

Annexure III and 4 witnesses were listed in Annexure IV of the charge sheet. The information furnished by the Petitioner regarding Enquiry Officer and Presenting Officer does not relate to charge sheet issued in this case but to another charge sheet issued to Petitioner in memo dated 24-9-98 for keeping his office cash and stamp balances short on 16-6-98 and for non-payment of the value of M.O. No. 4943 dated 15-5-98 of R. T. Nagar, Bangalore to the payee but shown the M.O. as paid in the records. As far as the charge sheet issued to I Party/Petitioner dated 13-3-98 is concerned, the memo was delivered to Petitioner on 18-3-98 but no representation was received from him within 10 days against the charges framed against him. Hence, Sri V. Swaminathan, the then ASP O/o. Superintendent of Post Offices, Pudukottai was appointed as Enquiry Officer and Sri K. P. Duraisamy, Sub Divisional Inspector Pudukottai South Sub Division, Pudukottai as Presenting Officer by Respondent's memo dated 23-4-98. The enquiry was conducted in 8 sittings from 9-5-98 onwards and Enquiry Officer's report submitted by the Enquiry Officer on 10-3-99 holding the only article of charge as proved after analysis and assessment of evidence let in during the enquiry. The Disciplinary Authority inflicted the penalty of removal from service to Petitioner after the Enquiry Officer's report, the entire case file and defence brief were gone through. The plea of hyper technical grounds made out is unfounded. The enquiry was conducted in a fair manner as prescribed in CCS (CCA) Rules 1965 and the principles of natural justice is not violated in any way. The enquiry under Rule 8 of P & T ED Agents (C & S) Rules, 1964 is required to be conducted in similar manner as Rule 14 CCS (CCA) Rules 1965 as applicable to departmental employees. It is not required under Rule 14 of CCS (CCA) Rules 1965 to furnish copies of the documents or statements of witnesses which have been relied upon by the department along with the charge sheet. The stage of perusal of documents by the charged Govt. servant and furnishing of statements of witnesses comes later when the enquiry is commenced. There is no denial of justice on this score as the Petitioner was allowed to peruse the documents and for taking copies thereof during the enquiry at the required stage and final action on the charge sheet was taken after following the prescribed procedure as outlines in Rules CCS (CCA) Rules, 1965. It is not correct to say that the statement dated 11-8-97 of Smt. K. Manimegalai was recorded behind the back of the Petitioner. After recording the statement dated 11-8-97 of Smt. K. Manimegalai regarding her complaint dated 18-7-97 to SPM Melasivapuri and complaint dated 21-7-97 addressed to Superintendent of Post Offices, Pudukottai Division, further enquiries were made with the Petitioner after showing the complaints and statement dated 18-7-97 of the depositor Smt. K. Manimegalai and his statement dated 30-8-97 was recorded by the investigating officer. The contention of the Petitioner that the statement dated 11-8-97 of Smt. K. Manimegalai was recorded behind the

back of the Petitioner is, therefore, not correct. No positive conclusion was arrived at by the Respondent as alleged. It is evident from the wordings of article of charge, it is alleged, appearing in the charge sheet issued by Respondent. As per Rule 5(1)(b) of Postal Manual Volume III the enquiry should not be entrusted to an officer directly subordinate to an officer who has already expressed an opinion on the allegation especially when such opinion is adverse to the accused. The Disciplinary Authority has not expressed any opinion on the allegation. The investigating officer during preliminary enquiry might have expressed definite opinion on the allegation. The Enquiry Officer appointed was the immediate subordinate of the Disciplinary Authority and not the subordinate of the investigating officer and there is no violating of rules as alleged. The only point for consideration is whether the closure amount as shown in the passed withdrawal form was actually paid to the depositor by Petitioner on the date of closure i.e. 23-4-97 or not. The argument put forth that the closure amount was paid to the mother of the depositor as directed by the depositor does not hold water as the closure amount should be paid to the depositor only immediately after getting acquittance in receipt for payment in the passed withdrawal form. The question of paying the closure amount to the Mother of depositor arises only if the depositor had authorised her mother as messenger in the withdrawal form itself. It is brought out during the enquiry that the closure amount was not paid to the depositor by the Petitioner immediately on his obtaining her acquittance on 23-4-97. The question of producing the Mother of depositor as a departmental witness does not therefore, arise. The Petitioner has misused the faith reposed on him by the department and the investing public as well and lowered the image of the department in the eyes of the public and it was therefore, not desirable to retain him in service. The punishment of removal from service imposed on the Petitioner is only proper and proportionate to the gravity of the charge. Therefore, it is prayed that this Hon'ble Court may be pleased to dismiss the above industrial dispute with cost.

4. When the matter was taken up for enquiry finally, no one has been examined as a witness on either side. No document has been marked as an exhibit on the side of the I Party/Workman. 6 Documents filed on the side of the II Party/Management were marked by consent as Ex. M1 to M6. The learned counsel for II Party/Management alone has filed his written arguments.

5. The Point for my consideration is —

“Whether the action of the management of Superintendent of Post Offices, Pudukottai Division, Pudukottai in removing Sri P. Shanmugam from services w.e.f. 31-03-99 is legal and justified? If not, to what relief the workman is entitled?”

Point :—

The Petitioner/Workman Sri P. Shanmugam has raised this industrial dispute challenging the action of the Respondent/Management Superintendent of Post Offices, Pudukottai Division, in removing him from service w.e.f. 31-3-99 as illegal and unjustified. It is his contention that for the alleged misconduct a charge memo was issued and an enquiry was conducted by the Respondent/Management and though the charges levelled against him have not been proved by evidences, the Enquiry Officer analysed the case on technical grounds and concluded that the charges have been proved and the Disciplinary Authority also considered the case on hyper technical grounds and concluded that charges have been proved and imposed the punishment of removal from service and that the enquiry has not been conducted in a fair manner following the principles of natural justice. But the said averments of the Petitioner in his Claim Statement has been denied as incorrect in the Counter Statement filed by the Respondent/Management.

6. No one has been examined as a witness on either side. On the side of the Respondent 6 documents have been marked as Ex. M1 to M6 and no document has been filed on the side of the Petitioner. Ex-M1 is the xerox copy of the memo dated 13-3-98 issued to the Petitioner mentioning the misconducts committed by him, when he was working as E.D. Branch Post Master, Varpattu B.O. It is alleged in the charge memo that when he was working as Branch Post Master, Varpattu BO he has failed to pay the closure amount of 4129.65 to the depositor of three year T.D. account under 117004 Smt. K. Manimegalai on the date of closure itself i.e. on 23-4-97 and thus, violated the provisions of Rule 136 and 145 of Rules for Branch Offices and thereby he failed to maintain absolute integrity and devotion to duty as required for him under Rule 17 of P & T ED agents (C & S) Rules, 1964. It is further alleged that on 23-4-97 he has received three year T.D. Passbook for the account No. 117004 from the depositor Smt. K. Manimegalai on 9-4-97 for closure after giving SB 20 receipt to the depositor and the passbook was sent to Head Office through Account Office and received back at the B.O. on 16-4-97 with passed warrants and required cash was also received from A.O. on 17-4-97 and that he obtained the signature of the depositor on 23-4-97 itself in the acquittance portion of withdrawal form and charged the amount as T.D. withdrawal in post office accounts on 23-4-97 itself, but did not actually pay the amount to the depositor and that he made false remarks in B.O daily accounts and B.D. journal from 17-4-97 to 22-4-97 as intimation in respect of entries against the T.D. amount and that he failed to collect the original receipt given to the depositor while accepting the T.D. passbook for closure on 9-4-97 and that the amount was paid to the depositor on 8-8-97 with interest Rs. 600/- after interference of Sri Manoharan, Sub Divisional Inspector (p) Pudukottai

South Sub Division, and the amount of Rs. 4129.65 was misappropriated by him on 23-4-97 till 7-8-97 and thereby he violated the provisions of Rule 136 and 145 of rules for Branch Offices and thereby failed to maintain the absolute integrity and devotion to duty in contravention of Rule 17 of P & T ED Agents (C & S) Rule, 1964. EX.M2 is the xerox copy of the memo dated 24-9-98 issued to the Petitioner mentioning two articles of charges stating that the Petitioner while working as Branch Post Master Varpattu BO on 16-6-98 had kept cash and stamp balance of the B.O. short to the tune of Rs. 1625.15 violating Rule 11 of the Rules for branch offices and thus he has failed to maintain absolute integrity and devotion to duty as required of him under Rule 17 of P & T E.D. Agents (C & S) Rules, 1964. It is further alleged that while he was working as EDBPM Varpattu from 18-5-98 to 27-5-98 has failed to pay a sum of Rs. 4000/- being the value of M.O. No. 4943 dated 15-5-98 of R.T. Nagar, B.G.32 payable to Smt. R.Periammal, but the M.O. was shown as paid to the payee even though it was not paid to the actual payee and thereby violated the provisions of Rule 109 and 113 of Rules for branch offices. In annexure II to that memorandum, two other articles of charges have been mentioned and had stated that the Petitioner has violated the Rule 17 of P & T E.D. Agents (Conduct & Service) Rules, and Rule 109 and 113 of Rules for branch offices and had failed to maintain absolute integrity and devotion to duty as required under Rule 17 of P & T E.D. Agents (Conduct & Service) Rules, 1964. Ex.M3 is the xerox copy of the memo dated 21-10-98 informing the Petitioner about the appointment of Enquiry Officer and Ex.M4 is the memo dated 21-10-98 issued to Petitioner informing him about the appointment of Presenting Officer. Ex.M5 is the xerox copy of the enquiry report dated 10-3-99 submitted by the Enquiry Officer in respect of the enquiry conducted for the charges levelled against the Petitioner under Ex.M1 charge memo. The Enquiry Officer has given a finding in his report holding that the charge against the Petitioner has been proved beyond doubt. Ex.M6 is the xerox copy of the proceedings of the Superintendent of Post Offices, Pudukottai Division in passing the order against the Petitioner as a penalty by removing him from service with immediate effect on the basis of the findings of the Enquiry Officer in his report under Ex.M5.

7. It is the contention of the Petitioner that the enquiry has not been conducted in a fair manner according to law. To substantiate this contention, he has not let in any oral or documentary evidence. A perusal of Ex.M5 enquiry report of the Enquiry Officer shows that 17 documents have been exhibited on the side of the Respondent/Management and 3 witnesses have been examined as witnesses for the management. Out of them the first witness is Smt. K.Manimegalai, depositor of 3 year T.D. Account No. 117004. A perusal of Ex.M5 shows that the first witness the T. D. Depositor has deposed

before the Enquiry Officer and has also spoken about the complaint given by her and also admitted the contents of the deposition before the investigation officer earlier. The 3rd witness the Investigation Officer has also given evidence about the investigation of the matter on the complaint of the T. D. Depositor Smt. K. Manimegalai and his obtaining of statements from the complainant. After analysing the evidence let in before him in detail, the Enquiry Officer has given his finding that the charges levelled against the Petitioner charge sheeted employee Sri P. Shanmugam has been proved beyond doubt. On the basis of that finding, the Disciplinary Authority has passed an order of dismissal from service under Ex.M6. It was discussed both in Enquiry Officer's report and also in Disciplinary Authority's proceedings that the Petitioner charge sheeted employee has not examined the Mother of the depositor to prove his defence that on oral request of the depositor, he had paid the amount to the depositor's Mother and if really, he obtained loan of Rs. 4000 from the Mother of depositor subsequently, he could have examined her as his defence witness and produce other evidence like pro-note as his exhibits. The reasons for having come to the conclusion that the charges have been proved against the Petitioner have been clearly given both in Enquiry Officer's report as well as in the proceedings of the Disciplinary Authority, which are Ex.M5 and M6 respectively. Under such circumstances, it cannot be said that the Enquiry Officer has given a perverse finding and it has been accepted by the Disciplinary Authority blindfoldedly without any basis. Further from the evidence available in this case, it is seen that the contention of the Petitioner that the conclusions have been made both by Enquiry Officer and Disciplinary Authority on technical grounds and not on legal evidence is incorrect. So from the evidence available in this case, it has been established that the Petitioner has misused the faith reposed on him by the Respondent department and the investing public and the misconduct committed by the Petitioner lowered the image of the department in the eyes of the public and hence, the Disciplinary Authority has considered that it was not desirable to retain the Petitioner in service, so the punishment of removal from service imposed by the Respondent/Management on the Petitioner for the proved misconduct is proportionate to the gravity of the charge. Hence, there is no scope for this Tribunal to interfere with the same by exercising jurisdiction under Section 11A of the Industrial Disputes Act, 1947. On this basis, it can be concluded that the action of the management of Superintendent of Post Offices, Pudukottai Division in removing the Petitioner from service w.e.f. 31-3-99 is legal and justified. Hence, the concerned workman Sri P. Shanmugam is not entitled for any relief. Thus, the point is answered accordingly.

8. In the result, an Award is passed holding that the concerned workman Sri P. Shanmugam is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 19th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :-

On either side None

Documents Exhibited :-

For the I Party/workman :— Nil

For the II Party/Management :-

Ex No.	Date	Description
M1	13-03-98	Xerox copy of the memo issued to Petitioner by Superintendent of Post Offices, Pudukottai.
M2	24-09-98	Xerox copy of the memo issued to Petitioner by Superintendent of Post Offices, Pudukottai.
M3	21-10-98	Xerox copy of the order with regard to appointment of Enquiry Officer issued by Superintendent of Post Offices.
M4	21-10-98	Xerox copy of the order with regard to appointment of Presenting Officer issued by Superintendent of Post Offices
M5	10-03-99	Xerox copy of the enquiry report.
M6	31-03-99	Xerox copy of the order of removal passed by Superintendent of Post Offices, Pudukottai against the Petitioner.

नई दिल्ली, 11 फरवरी, 2003

का. आ. 820.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फिशनेट मैकिंग प्लांट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बेंगलूर के पंचाट (संदर्भ संख्या 72/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-42012/22/90-आई आर (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 820.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 72/90) of

the Central Government Industrial Tribunal/Labour Court Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Fishnet Making Plant and their workman, which was received by the Central Government on 11-02-2003.

[No. L-42012/22/90-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
“SHRAM SADAN”,

III Main, III Cross, II Phase, Tumkur Road,
Yeshwanthpur, Bangalore.

Dated : 21st January 2003

PRESENT

Hon'ble Shri V. N. KULKARNI, B.Com, LL.B,

Presiding Officer

CGIT-CUM-LABOUR COURT,

BANGALORE.

C.R. No 72/1990

I PARTY

II PARTY

Shri R. Venkateshwara Rao, The Manager,
Quarter No. 12,
New Fishers Colony,
T. B. Dam,
Ballary Distt.-533 225

Fishnet Making Plant,
Tungabhadra Board,
T. B. Dam,
Bellary Distt.-583 225

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order. No. L-42012/22/90-IR(DU) dated 30th November, 1990 for adjudication on the following schedule :

SCHEDULE

“Whether the action of the management of Fishnet Making Plant, Tungabhadra Board, T. B. Dam, Bellary Distt. in dismissing Shri R. Venkateshwara Rao, Ex-workman from his services is justified? If not, to what relief the workman is entitled to?”

2. The first party was working with the management. He committed misconduct. Charge sheet was issued and after the findings given by the Enquiry Officer and the judgement of the Competent Criminal Court, the workman is dismissed and therefore, this Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the workman in brief is as follows :—

5. The first party workman is working with the management in the process of manufacturing Fish Nets and Twines etc. The Industry controlled by the Manager, who in turn controlled by the Secretary, T.B. Board. The first party was appointed on 6-2-1978 as a worker. He says that he was discharging his duties to the best satisfaction of his superiors.

6. It is the further case of the workman that on 31-3-1984 the cashier of the Fish Net Making Plant, Shri B.M. Balakrishnan sent one Laxmipathinaik, Second Division Clerk to treasury. His services were borrowed from the Govt. of Karnataka. The Cashier sent certain bills through Sri Laxmipathinaik by making necessary entries. Details are given in Para 6 of the Claim Statement. In fact Laxmipathinaik has encashed the bills and the workman has nothing to do with that. After a long gap suspension order was issued and enquiry was conducted. The report of the Enquiry Officer is in negative.

7. The management has also suspended Mr. H. Laxmipathinaik on the same charges. But he filed a writ petition before the High Court of Karnataka and according to the final order the services of Shri Laxmipathinaik were reinstated. The workman went to High Court and the High Court directed the management to file the report of the Enquiry Officer. The allegations of the management are quite false. The order of suspension and termination is illegal. Workman for these reasons and for some other reasons has prayed to pass award in his favour.

8. Against this the case of the management in brief can be narrated as under :—

9. In fact there is no jurisdiction even at the time of reconciliation of the dispute. The provisions of Industrial Dispute Act are not applicable to Tungabhadra Board. Details for the same are given in the Counter and it is contented that this Tribunal has no jurisdiction to proceed in this dispute. The functions of the board etc. are given in detail. The salaries of the workmen of this plant are also fixed as admissible to the Government Servants of Karnataka Government. Allegations are correct.

10. Regarding enquiry it is said that the enquiry conducted by the Enquiry Officer is in accordance with law and the same is valid. The facts of the case of Shri H. Laxmipathinaik are quite different from the facts of this workman. In the absence of prior permission of the Govt. of Karnataka the dispute is not maintainable. Management for these reasons and for some other reasons has prayed to reject the reference.

11. It is seen from the records that in the year 1997 MW1, Shri Vijay Chandapur, Engineer is examined. He has given detailed evidence and stated about two bills, which were encashed. It was found that two bills amounting to Rs. 72,900 and Rs. 20,000 had not been prepared by the office but the first party individually prepared fraudulently and produced before the treasury and encashed the amount. The workman has committed fraud. There was an enquiry against the workman. Numbers of documents are marked in his evidence. One Mr. Laxmi Narayana Rao, the then Divisional Executive Engineer was the Enquiry Officer. In other words this MW1 has given evidence on merit. In fact all that is not correct.

12. Again MW2 is examined who is the Enquiry Officer. On 1-10-2002 MW 2 is examined. He has given detailed evidence and said that he has conducted the enquiry against the workman. He is cross examined by the workman and he has said in his cross examination that he does not know anything about proof of the charges.

13. On 8-1-1997 workman got examined himself. WW1 also said that enquiry was held against him.

14. It is seen from the records that for many days the matter was adjourned saying that there is Stay Order. On 30th August, 2002 I have carefully examined the proceedings and gave a detailed order saying that a finding has to be given on preliminary issue. While examining the reasons for pendency of this old matter it was detected that the workman was convicted by the competent Criminal Court and the workman preferred an appeal before the Jurisdictional Sessions Court and the Jurisdictional Sessions Court suspended the same. For that reason the learned counsel appearing for the workman went on saying that the matter is stayed. In fact there is no stay for these proceedings before this Tribunal. Sentence is suspended and stayed therefore, I posted the matter for deciding preliminary issue on DE.

15. On 4th October, 2002 the learned counsel appearing for the workman has submitted that the procedure followed by the Enquiry Officer is correct and full opportunity was given to the workman to defend himself and therefore, the finding may be given holding that the Domestic Enquiry is fair and proper. In other words this finding is to the extent of procedure followed during the enquiry and to know whether full opportunity is given to the workman to defend during the DE and nothing else.

16. Thereafter counsels remained absent. Parties remained absent. On 29th November, 2002 the matter was posted for Award. At this stage the learned counsel appearing for the management has appeared and submitted that he would argue the matter. Till 20-1-2003 the learned counsel appearing for the management has also not argued the matter.

17. On 20-1-2003 the first party and counsel remained absent. The learned counsel appearing for the management argued the matter in detail.

18. I have considered the entire material before me very carefully. I have also considered the finding given by the Enquiry Officer. Very systematically the enquiry is held against the workman. The Enquiry Officer has come to the conclusion that further action is necessary and till then it is held by him that it is proved beyond doubt that the bills are forged.

19. According to the learned counsel appearing for the management that after the finding given by the Enquiry Officer, a criminal case is filed against the workman before the Learned Additional Civil Judge, Hospet and according to the copy of the judgement filed before this tribunal, this workman and one Laxmipathi Naik are convicted.

20. It is seen from the records that this workman has preferred appeal against the said conviction before the Competent Court and produced order suspending the sentence.

21. I have already said that on this ground the matter was adjourned for a long period. Admittedly there is no stay for our proceedings. It may be a fact that the workman might have filed appeal against the order of conviction. But it is clear that as, on this date the workman is convicted and the Enquiry Officer has held that till further action charges are proved and misconduct is established. What we have to see is whether the misconduct is proved. Of course the nature of misconduct is serious. Misconduct is proved.

22. Learned counsel appearing for the management has relied decision reported in AIR 1988 SC 285. I have read the above decision carefully.

23. Keeping in mind the principles held in the above decision of the Hon'ble Supreme Court and looking to the facts of this case I am of the opinion that for our present purpose misconduct is proved and the finding of the Enquiry Officer is fair and proper. There is no perversity in the findings as it may on to date the workman stands convicted. For our present purpose all this is sufficient to say that there are no good grounds to invoke the provisions of Section 11 A of the ID Act and to interfere with the punishment imposed by the management. Accordingly I proceed to pass the following Order.

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 21st January, 2003)

V.N. KULKARNI, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 821.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी. डब्ल्यू.डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या सी जी आई टी बी-48/97 सी जी आई टी-14/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-03 को प्राप्त हुआ था।

[सं. एल-42011/27/96-आई आर (डी.यू.)/
एल-42011/107/99-आई आर (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S. O. 821.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-48/97 CGIT-14/2001) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CPWD and their workman, which was received by the Central Government on 11-02-2003.

[No. L-42011/27/96-IR(DU)/No. L-42011/107/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT, JAIPUR

CASE NO. CGIT B-48/97.

Reference No. L-42011/27/96-IR(DU)

The Branch Secertary,
C.P.W.D. Mazdoor Union, Jaipur,
Through Kunal Rawat, Ranjeet, Nagar,
Khatipura, Jaipur. Applicant Union

Versus

1. Director General, Construction,
Directorate Construction, CPWD,
Nirman Bhawan, New Delhi.

2. The Executive Engineer,
Central Electricity Division,
C.P.W. D., B-7, Moti Marg,
Bapu Nagar, Jaipur

3. Assistant Engineer
CPW, Electricity Division,
GSI Building, Jhalana Dugri,
Jaipur. Non-applicants

AND

Case No. CGIT-14/2001

Reference No. L-42011/107/99-IR(DU)

Sh. Hemant Kumar & Others
Through Sh. Kunal Rawat,
35-36, Ranjeet Nagar, Khatipura,
Jaipur-302001. Applicant Union

Versus

1. Executive Engineer,
C.P.W.D., B-7, Moti Marg,
Bapu Nagar, Jaipur-302001

2. Assistant Engineer
CPWD, Electricity Division,
GSI Building, Jhalana Dungri,
Jaipur. Non-applicants

PRESENT :

Presiding Officer : Sh. R.C. Sharma.

For the applicant : Sh. Kunal Rawat.

For the non-applicant : Sh. Tej Prakash Sharma.

Date of award : 13-01-2003.

AWARD

1. Since both these industrial disputes are having the identical facts involved therein, these are being disposed of by this single award.

2. In the industrial dispute CGIT-B-48/97 titled as Branch Secretary, CPWD Labour Union, Jaipur Vs. General Director, Construction and Ors., the Central Govt. in exercise of the powers conferred under clause 'D' of sub-Section 1 & 2(A) of Section 10 of the Industrial Development Act, 1947 (for short, the Act) has referred the following dispute to this Tribunal for adjudication which runs as under :—

"Whether the action of the management of C.P.W.D. Jaipur in not absorbing the services of 13 workmen (list enclosed) and terminating the services of 8 workmen at Sl. No. 1,2,3,4,5,11,13. as above is justified? If not, to what relief the workmen are entitled to?"

3. Subsequently, the Central Govt. has issued an undated corrigendum (received in the Tribunal on 3-1-2000) modifying the above-mentioned schedule containing the names of the workmen annexed thereto by inserting serial no. 7 bearing the name of Sh. Shiv Shankar, Punupman.

4. In pursuance of the aforesaid dispute, the Union has filed a statement of claim stating therein that the workmen, listed below, were engaged by non-applicant

No. 3, Assistant Engineer, CPWD (Electricity), subdivision GSI Building, Jhalana Dungri, Jaipur on the dates exhibited against their names in the following order on various posts :—

Name	Date of Appointment
Sh. Raj Kumar	21-2-89
Sh. Mool Chand Sharma	20-5-93
Sh. Puran Singh	28-7-93
Sh. Ganesh Narain	28-11-91
Sh. Chandan Singh	1-5-92
Sh. Babu Lal	13-7-92
Sh. Shiv Shankar Singh	9-9-89
Sh. Bhawani Singh	6-5-94
Sh. Yogendra Singh	20-8-92
Sh. Hemant Kumar	5-10-93
Sh. Shravan Lal	3-3-89
Sh. Madan Lal Regar	4-3-89 &
Sh. Mukesh Kumar Sharma	20-5-92

5. According to the Union, these workmen had worked for more than 240 days continuously under the entire control of non-applicant No. 3, the office thereof looks after the supply of electricity and water and regulating lifts and pumps in the building of the Geological Department. The workmen were engaged on the various posts of wireman, helper, pumpman and liftman; who performed the work of the perennial nature. The Union has averred that the workmen marked their attendance in the registers maintained by the non-applicants, but they were not paid in parity with the regular employees. It is further alleged that the workmen had moved a complaint before the Joint Assistant Labour Commissioner, Central Govt., Jaipur and on account of this grudge, the non-applicants terminated the services of Sh. Raj Kumar, Sh. Mool Chand, Sh. Puran Singh, Sh. Ganesh Narain, Sh. Chandan Singh, Sh. Shiv Shankar and Sh. Mukesh Kumar on 5-7-1996 respectively in violation of the legal provisions. It is also stated that in order to devoid the workmen of the benefits of regular employees, the wages were paid to them through some distinct agencies, that the equipments/machines provided to the workmen belonged to the Central Govt. and that they are the direct employees of the non-applicant establishment. The Union has averred that the non-applicants have violated the provisions under Section 25-F, 25-G and 25-H of the Act while terminating the services of the workmen. The Union has sought the relief that the termination order may be declared null and void and the workmen may be reinstated with Continuity of their services and back-wages.

6. Antagonizing the claim filed by the Union, the non-applicants in their common written statement have declined that the workmen were engaged by them and that they were not appointed on permanent post or against the vacancies of the permanent posts. They have stated that the contractor had deployed these workmen, whose control vested with the contractor itself and that the non-applicants had no control over them. It has been further stated that the payment to the workmen were made by the contractor, that the agreements were executed by the non-applicants with the contractor to assign the given work and that the workmen had not worked for 240 days in a year. The non-applicants have stated that so far as performing the electric work in the building of the Indian Geological Department is concerned, the work was performed by the employees of the non-applicant establishment and due to the lack of employees, the remaining work was given to the contractor for performing the same. They have also denied that no record pertaining to the workmen was kept with the non-applicant establishment and the same was maintained by the contractor himself. It is averred that the officers of the non-applicant establishment used to inspect only the work performed by the workmen as per the terms of the contract, who were engaged by the contractor. The non-applicants have admitted that the equipments/machines supplied to the workmen belonged to the non-applicant establishment. They have averred that neither the workmen were engaged by them nor their services were terminated by them.

7. In the rejoinder, the Union after reiterating the facts contained in the statement of claim has stated that no agreement was executed between the workmen and the contractor, that the complete record pertaining to the workmen was kept by the non-applicant establishment and that the workmen have no concern with the contractor.

8. On behalf of the applicant-Union, the affidavits of the workmen, viz., Sh. Raj Kumar, Sh. Mukesh Kumar, Sh. Puran Singh, Sh. Ganesh Narain, Sh. Shiv Shankar, Sh. Mool Chand, Sh. Chandan Singh, Sh. Bhawani Singh, Sh. Madan Lal Regar, Sh. Hemant Kumar, Sh. Babu Lal and Sh. Yogendra Singh have been filed. The non-applicants have submitted the counter-affidavits of Sh. S. K. Chawla, Executive Engineer (Electricity); Sh. AK Ken, Executive Engineer (Electricity) and Sh. GM Saxena, Junior Engineer.

9. The applicant Union has exhibited the log sheets of lifts and complaint registers of the non-applicant establishment, whereas the non-applicant management has adduced the agreements Ex. M-1 to M-11 on the record.

10. In the another dispute CGIT-14/2001 titled Sh. Hemant Kumar and Ors. Vs. Executive Engineer, Central

Electricity Board, CPWD (Electricity) and Ors, the Central Govt. under the aforesaid provisions of Section 10 of the Act has referred the following dispute :—

“Whether the action of the management of C.P.W.D., Jaipur in terminating the services of their workmen S/Sh. Hemant Kumar, Madan Lal, Yogender Singh, Bhawani Singh and Sh. Babu Lal w.e.f. 30-6-96 is legal and justified? If not, to what relief the workmen are entitled?”

11. Both the parties have adopted the same pleadings as they have taken in the aforesaid industrial dispute No. CGIT-B-48/97 which require no further repetition. In short, the facts are that the applicant-workmen, named below, were engaged by the non-applicant department on the post of the lift operators respectively and on the dates shown against their names as under :—

Name	Date of Appointment
Sh. Bhawani Singh	6-5-94,
Sh. Yogendra Singh	20-8-92,
Sh. Hemant Kumar	5-10-93,
Sh. Babu Lal	13-7-92,
Sh. Madan Lal Regar	4-3-89.

12. The applicants have averred that they had filed a complaint before the Conciliation Officer through the Union to grant them the regular pay-scale and thereafter, the non-applicants in violation of the legal provisions terminated their services w.e.f. 30-6-96, that they had worked for more than 240 days under the total control of the non-applicants, that the work performed by them was of the perennial nature, that they marked their attendance in the registers maintained by the non-applicant establishment and that there existed a relationship of employer and the employee amongst the applicants and the non-applicants. They have averred that the non-applicant establishment in violation of the provisions under Section 25-F, 25-G and 25-H of the Act have terminated their services and have prayed that the termination order may be declared null and void and that they may be reinstated with continuity of their services and with back-wages.

13. contesting the claim filed by the applicants, the non-applicants in their joint written statement have declined the existence of any relationship of employer and employee between both the parties and stated that they were not appointed on the temporary posts, or against the vacant posts nor they were appointed by following a prescribed procedure of appointment. It has been further averred that the non-applicants had executed as many as 11 agreements with M/s Globe Engineering and Contractor, which engaged the workmen and they

performed the work as per the terms of contract. They have denied that the workmen were appointed by the non-applicant establishment and have pointed out that the payment to the workmen was made by the contractor.

14. In the rejoinder, the applicants have reiterated the facts as mentioned by them in their statement of claim.

15. In the oral evidence, the affidavits of Sh. Babu Lal, Sh. Yogendra Singh, Sh. Hemant Kumar, Sh. ML Regar and Sh. Bhawani Singh have been filed. On behalf of the non-applicants, the counter-affidavit of Sh. AK Ken, Executive Engineer has been submitted on the record. Both the parties have relied upon the documentary evidence as has been adduced in the dispute No. CGIT-B-48/97.

16. I have heard both the parties and have gone through the record.

17. Now, the pertinent question which emerges out leading to the adjudication of these disputes is as to whether the workmen were the direct employees of the non-applicant establishment and whether the non-applicants had executed the genuine agreements with the contractor to assign the given work.

18. The Id. representative for the workmen has contended that all the workmen were employed by the non-applicant establishment as casual workers, who worked for more than 240 days under the supervision of the non-applicants, who used to allot the work to them. He submits that the attendance register and duty slips, which were in the possession of the non-applicants have not been produced by them and they have produced the log books and complaint registers from the period 21-2-89 to 5-7-96, amongst them the complaint register of the period from February, 89 to August, 89 and the log books of the period February, 89 to December, 91 have not been produced. He further submits that the witness Sh. G.M. Saxena, examined on behalf of the non-applicants has admitted that after the termination of the workmen, the new employees have been engaged.

19. Arguing contra, the Id. representative for the non-applicants has contended that none of the workmen out of 13 is in the employment and, therefore, the question of their regularization and absorption in the service with the non-applicants does not arise. His further contention is that no document regarding the appointment of the workmen by the non-applicants has been filed by the applicant, nor the termination order has been produced on the record. According to his contention, the supervision of the non-applicants over the workmen is not disputed, because the work which has been mentioned in the log books and complaint registers was to be supervised by the officers of the non-

applicant establishment. He further contends that the non-applicant establishment invited the tenders from the contractors and the work was allotted to the contractor, to whom the contract money was paid and he further paid the wages to the workmen. The Id. representative has declined the direct involvement of the CPWD in the matter. His contention is that the workmen were performing electrical works in the houses of the Geological Survey of India and the works of electricity and lift operating were looked after by the CPWD.

20. Both the Id. representatives have referred to various decisions in support of their contentions respectively.

21. I have given my thoughtful consideration to the rival contentions and have deeply gone through the decisions referred to before me.

22. The first and foremost question for consideration is whether the workmen were directly employed by the non-applicant establishment.

23. The Id. representative for the workmen has argued that the workmen were engaged by the non-applicant establishment, whereas on behalf of the management, it has been contended that the workmen were engaged by the contractor, who was assigned to perform the particular work.

24. Admittedly, the workmen appearing in the evidence have conceded that no appointment letter or termination order was issued to them on behalf of the non-applicant establishment. At the behest of the workmen, no such document could be produced which may reflect that they were directly employed by the non-applicant establishment. It is only on the basis of the log sheets of lifts and the complaint registers, which were called for from the custody of the non-applicant management at the request of the applicant-Union, the Union has claimed that the workmen had worked for more than 240 days with the non-applicant establishment. The Id. representative, on the basis of these register, has shown that the workmen performed the work for more than 240 days.

25. It is evident that the attendance register has not been placed on the record which could indicate the particular period in which the workmen had worked with the non-applicant establishment. The log sheets of lifts contain the names of the few workmen who operated the lifts. Similarly, in the complaint register, when a complaint was lodged by the consumer, the workman was directed to check it. The Id. representative for the non-applicant establishment has shown that the works which have been mentioned in the log book and complaint register were to be supervised by the non-applicant establishment, which is one of the units

of the Central Govt. to construct the Government residential buildings and to look after the repairing works. In the agreements Ex. M-1 to M-11, a condition is incorporated that the work will have to be carried out by the contractor to the entire satisfaction of the Engineer-in-charge. In view of this stipulation, the submission advanced by the Id. representative is substantiated that the work assigned to the contractor was to be supervised by the engineers and such entries made into the log sheet and complaint register simply denote that the work performed by the contractor through the workmen was supervised by the Engineer in-charge. Hence, these documents do not support the feeble assertion of the Id. representative for the workmen that on the basis of these documents, the workmen were employed by the non-applicant management, rather this contention of the Id. representative for the non-applicant establishment finds favour from them. Apart it, as has been pointed out earlier, no such document has been filed on behalf of the applicant-Union which may lead to infer that they were directly engaged by the non-applicant establishment.

26. The Id. representative for the workmen has referred to the following decisions in support of his contention that on completion of 240 days, the workmen become entitled for reinstatement or absorption with the non-applicant management :—

27. 2002 Lab IC Gujarat High Court 1546:—In this decision the workman was a daily wager who was engaged by the establishment and who had completed over 240 days of continuous service. On terminating her service, the Labour Court found that it was in violation of Section 25-F, and granted the reinstatement with continuity of the service.

28. As it is clear from the aforesaid facts that the workman was engaged by the employer, whereas in the instant dispute, this fact is disputed that the workmen were engaged by the employer directly. Hence, facts of the referred case differ from the facts of the dispute under adjudication.

29. 2002 Lab IC Bombay High Court 415 :—In this decision, there was no dispute about the fact that the workman had worked with the railway management for over a period of 240 days. Hence, the facts of the referred case are not applicable to the case at hand.

30. The Id. representative for the workmen has also contended that the attendance register of the workmen was kept with the non-applicant management, which, despite the request made on behalf of the workmen could not be produced by the non-applicants before the Court and, hence, the adverse inference may be drawn

against the non-applicants. In support of his contention, he has placed his reliance upon RLW 1979596, wherein the Hon'ble Court has observed that the management was in possession of the entire record about the workmen, which failed to produce any document, whatsoever. In this case, even the management failed to produce even its personnel officer who used to deal with the work and, therefore, the Labour Court could have drawn adverse inference against the management for non-production of documents and witnesses.

31. It emerges out from the perusal of the decision supra that the workman was working as a carpenter in the employment of the petitioner from a long time. Under these circumstances, it can safely be presumed that the record pertaining to the workman was kept by the management. But the present dispute is distinguishable on the basis of these facts that the non-applicant management has declined the employment of the workmen by it and has also rendered the explanation for keeping the complaint register and log sheet containing the names of the workmen with the management as to supervise them. Accordingly, I find no substance in this submission of the Id. representative for the workmen and is not acceptable.

32. The Id. representative for the workmen has also raised an objection that the non-applicant management is not holding the licence for allotting the work to the contractor. In support of this contention, he has referred to AIR 1999 SC 1161. But his objection has been answered by MW-1, Sh. A. K. Ken, Executive Engineer to this effect that since the department belongs to the Central Govt., it is not required to produce the licence for allotting the work to the contractor. Accordingly, this objection raised by the Id. representative for the workmen is also not tenable.

33. The Id. representative for the workmen has also referred to the following decisions, which I have deeply gone through, but in my considered view, the facts of these referred cases are entirely distinguishable from the facts of the case at hand and they do not provide any assistance to the Id. representative :—

AIR 1968 SC 1413; AIR 1968 SC 1416; AIR 1995 SC 1352 & 2002 Lab IC Allahabad 2830.

34. Contrary to it, the Id. representative for the non-applicant establishment has argued that no such document has been produced on behalf of the workmen themselves that they were engaged directly by the non-applicant management and the Id. representative has placed his reliance upon 2002 (1) WLC 501. The Hon'ble Court at para 22 of the judgment has observed as below :—

“In this case heavy burden lies upon the respondent workmen to prove his case and when he has not produced

the document on which his case has been made, the Labour Court has acted arbitrarily not drawing an adverse inference against him. The Labour Court has not dealt with the case of the petitioner fairly, reasonably and impartially. For non-production of the document by the petitioner an adverse inference has been drawn but the same treatment has not been given in the case of respondent workman. It was the case of the petitioner that the respondent workman has never worked with them. This case of the petitioner stands proved from the respondent workman's own case as he has not produced that diary on which his claim is based before the Labour Court or before this Court though admittedly it was with him. The finding given by the Labour Court re-appointment of the respondent workman is wholly perverse and it cannot be allowed to stand."

35. The applicant-Union has not produced any document on the record which could suggest that the workmen were directly engaged by the non-applicant, e.g., the appointment order or the termination order or even the pay-slips issued by the non-applicant establishment which could have established the claim of the workmen that they were employed with the non-applicant establishment, but none of these documents has been brought on the record on behalf of the workmen. Beyond it, the oral evidence adduced by the applicant-Union or the workmen is also of feeble nature. The workmen in their depositions have stated that they are unable to point out the specific periods of the employment, that they have not filed the application before the management for their appointment and that they have not marked their attendance in the attendance registers. These versions disclose that the oral evidence adduced on behalf of the applicant-Union is also not definite in nature and cannot be relied upon.

36. The Id. representative for the non-applicants has also submitted that presently no workman is working with the non-applicant management and that there are no such permanent posts sanctioned with the non-applicant management. According to his contention, on this ground, the services of the workmen cannot be regularized. In support of his contention, he has referred to AIR 1994 SC 1638, the relevant paragraph of the judgment is quoted below :—

"We are unable to uphold the order of the High Court. There were no sanctioned posts in existence to which they could be said to have been appointed. The assignment was an *ad hoc* one which anticipatedly spent itself out. It is difficult to envisage for them, the status

of workmen on the analogy of the provisions of Industrial Disputes Act, 1947, importing the incidents of completion of 240 days' work for that duration under the Industrial Dispute Act, 1947 are entirely different from what, by way of implication, is attributed to the present situation by way of analogy. The completion of 240 days' work does not, under that law import the right to regularization. It merely imposes certain obligations on the employer at the time of termination of the service. It is not appropriate to import and apply that analogy, in an extended or enlarged form here."

37. This fact has not been exhibited on behalf of the workmen that these posts, on which it has been alleged that the workmen had worked with the non-applicant establishment, were sanctioned posts with the non-applicant management. Accordingly, I find merit in this contention raised by the Id. representative for the non-applicant management which is fully supported by the aforesaid observation of the Hon'ble Apex Court.

38. It has been alleged by the applicant-Union that these workmen are still working with the non-applicant management, which is controverted on behalf of the non-applicants. In his cross-examination, the workman Sh. Babu Lal (CGIT-14/2001) has admitted that all the 13 workmen have been disengaged from their services. Hence, this contention on behalf of the applicant-Union is also non maintainable that these workmen are still working with the non-applicant management.

39. Now, remains the factum of appointment of new workman after terminating the services of the workmen. The Id. representative for the workmen has contended that Sh. G. M. Saxena has admitted this fact in his testimony. I have carefully gone through his deposition, but I do not find any such admission made by him in his testimony. No such fact emanates from the record that the non-applicant establishment has made the new appointments since the termination of the services of the workmen. Hence, this contention being devoid of force is not maintainable.

40. For the foregoing reasons, both these references may be answered in negative and it is held that the workmen as named in both the referred industrial disputes, are not entitled for their reinstatement and absorption in the services. An award is accordingly passed.

41. Let the copies of award be sent to the Central Govt. for publication under Section 17 (1) of the Act.

R. C. SHARMSA, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 822.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या-16/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/467/2000-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 822.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/467/2000-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT LUCKNOW
PRESENT: RUDRESH KUMAR PRESIDING OFFICER

I.D.No. 16/2001

Ref. No. L-40012/467/2000/IR (DU) Dated: 18-1-2001

BETWEEN

Sh. Chandra Pati Yadav S/o Rali Ram Yadav, Vill- Kiolari
Khurd, PO : Kiolari Buzurg, Azamgarh (UP)

AND

The General Manager, Telecom Department, Varanasi
East, Varanasi (U.P.) 221001

AWARD

By Order No. L-40012/467/2000/IR (DU) Dated: 18-1-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Chandra Pati Yadav S/o Rali Ram Yadav, Vill- Kiolari Khurd, PO: Kiolari Buzurg, Azamgarh (UP) and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under :

“Whether the action of the management of Telecom Deptt. in terminating the services of Sh. Chandra Pati Yadav w.e.f. 1-6-99 is justified? If not, to what relief the workman is entitled?”

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-10-96 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s Security and Protection Services, was not a registered licensee contractor; that throughout his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of Section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh, is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to District Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s Security and Protection services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s Security agency is a broker or the agent of the Telecommunication Department. Master and servant relationship is denied and further the application of Section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban, rural and remote areas in the country, the telecom network was installed and big Telephone Exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for Telephone Exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s Security and Protection Services at the terms and conditions mutually agreed upon. M/s Security and

Protection Services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under Section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2002 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the Telecommunication Department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working

period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under Section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of Section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others Vs Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to re-instatement with full back wages. The reference is adjudicated in favour of the workman.

10 Award as above.

Lucknow 31-1-2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 823.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या-42/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/504/2000-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 823.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 42/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/504/2000-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -
CUM- LABOUR COURT LUCKNOW

PRESENT: RUDRESH KUMAR, PRESIDING OFFICER

I.D. No. 42/2001

Ref. No: L-40012/504/2000/IR (DU) Dated: 1.2.2001

BETWEEN

Sh. Shailesh Kumar S/o Swami Nath Vill. Hichhan Patti,
PO: Pachkohra, Azamgarh (UP) 276001

AND

The General Manager, Telecom Department, Varanasi
East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/504/2000/IR (DU) Dated 1-2-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Shailesh Kumar S/o Swami Nath, Vill. Hichhan Patti, PO: Pachkohra, Azamgarh (UP) 276001 and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under:

“Whether the action of the Management of Telecom Deptt. in terminating the services of Sh. Shailesh Kumar Rai w.e.f. 1-6-99 is justified? If not, to what relief the workman is entitled?”

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-4-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that

M/s Security and Protection Services, was not a registered licensee contractor; that throughout his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s Security and Protection services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s Security agency is a broker or the agent of the Telecommunication department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s Security and Protection Services at the terms and conditions mutually agreed upon. M/s Security and Protection services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director. S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor

and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under Section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-1997 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under Section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of Section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W. P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and Others Vs. Steel Authority of India and Others reported at 1994 (69) FLR256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW

31-1-2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 824.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या-एलसीआई डी-68/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-02-2003 को प्राप्त हुआ था।

[सं. एल-40025/2/2003-आई आर (डी यू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 824.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), of the Central Government hereby publishes the award (Ref. No. LCID-68/2001) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-02-2003.

[No. L-40025/2/2003-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT
HYDERABAD

Present

Shri E. ISMAIL

Presiding Officer

Dated the 23rd day of December, 2002 INDUSTRIAL
DISPUTE L.C.I.D.No. 68/2001

Between:

Sri M. Sadiq,
S/o Late Md. Afzali,
R/o H.No.11-23-2242,
Ganesh Nagar,
Dasaipet, Warangal-506 012.

Petitioner

AND

1. The General Manager,
A.P. Telecom, Suryalok
Complex, Abids, Hyderabad.
2. The Divisional Engineer, Telecom District,
Telecommunications, Warangal ... Respondents

Appearances:

For the Petitioner : M/s R. Yogender Singh, V. Kiran
Kumar, K. Sunil Kishore Goud &
B.K.M. Chakravarthy, Advocates

For the Respondent : Sri R.S. Murthy, Advocate

AWARD

This is a case taken under Sec.2A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief averments of the petition are: It is submitted that Respondent No.2 engaged the Petitioner w.e.f April, 1982 to August, 1985 on muster rolls. During the period April, 1982 to December, 1982 the workman was engaged for a period of 252 days including weekly offs. From 1-1-83 to 31-12-83 for a period of 344 days from 1-1-84 to 30-12-84 for 247 days, from 2-1-85 to 17-8-85 for 122 days, a total period of 965 days. The Petitioner submits that his name was removed from the muster rolls of the Department w.e.f. August, 1985. Thus it tantamounts to termination violating the provisions of the I.D. Act, 1947. That he belongs to an economically backward class and due to the arbitrary and inhuman action of the Respondent his entire family is thrown into financial hardship. That whenever he requested the 2nd Respondent dogged the matter by making false promises that they would reengage the Petitioner whenever a vacancy is arisen. In fact, the Respondent is extracting work from the Petitioner even on

today which is violative of the law of the land because the work being allotted to the Petitioner on contract basis is perennial and continuous in nature. That the workman has completed more than 240 days in a year. The action of the Respondent in terminating the services of the Petitioner without giving one month notice or one month salary is violative of the provisions of the I.D. Act. Hence, the Respondent may be directed to reinstate the Petitioner with back wages and continuity of service.

3. A counter was filed on behalf of both the Respondents. It is averred in the counter that the respondents are entrusted with the responsibility of setting up and maintenance of telephones through the control of Ministry of Communications under the Government of India Allocation of Business Rules, 1961. That for the purpose of laying cables, digging, carrying loads, huge manual work force was required and the works were of intermittent nature and not continuous. The work was also seasonal. The sanctioned strength based on regular and continuous work load is not adequate to meet several exigencies and emergent situations arising out of natural calamities and other unforeseen circumstances. That persons were engaged purely on temporary daily wages to cope up with the urgent execution of works which could not be postponed and are not capable of being completed exclusively with regular sanctioned strength. Further, the Petitioner is seeking relief for having worked during 1982—85. And the records of the said period have been weeded out by efflux of time as per retention schedules stipulated in Appendix 3 to P & T Financial Hand Book Vol. 111. In this connection it is submitted that the Petitioner is deemed to have been abandoned the mustering officer and seeking relief after a lapse of 12 years. The Central Government has declined to make reference under Sec. 10 of the I.D. Act in similar circumstances which equally applies to facts of the case herein. The Petitioner also raised an industrial dispute before ALC(C), Mancherla in the year 2000. The claim is misconceived, frivolous and vexatious. The Department has taken a policy decision to close the establishment engaging contract labour. Thereby leaving no scope for invoking the provisions of Sec.25F of the I.D. Act. The daily wage in the absence of any sanctioned post could not stake any claim for permanent employment as held in Balwinder Singh Vs. State of Himachal Pradesh 1999 (II LLJ) 1116. That a full bench of Hon'ble High Court of A.P. reported in 2001 (3) DT (AP) 141 held that a regular employment can be made only in terms of recruitment rules and subject to the candidates possessing the requisite qualification and also subject to existence of any sanctioned post. It was further held that only because a person has worked for 240 days that itself will not be a ground to

regularize the services of the concerned employee. That the Respondent as a matter of policy have discontinued engagement of casual labour in view of the change in operation, development and maintenance of telecom network. Thereby leaving no scope for engagement of the Petitioner for all purpose. Hence, the Petition may be dismissed.

4. The Petitioner examined himself as WW1 and deposed that he was engaged as casual mazdoor by the Respondent with effect from 1-4-82 to December, 1982 on muster rolls. That he worked for 252 days. Again he was engaged in from 2-1-85 to 17-8-85 on ACG-17 as casual mazdoor. In total he worked for 965 days. Verification is Ex.W1. Again he worked under cable contractor from January, 1996 to 2001 on daily wages. The certificate is Ex.W2. The muster rolls register is Ex.W3. That he raised the dispute before ALC(C), Mancherial which ended in failure. Ex.W4 is the failure report. Ex.W5 is a letter dated 4-12-2001 issued by Ministry of Labour rejecting to refer the dispute stating that his dispute is raised after a lapse of 15 years. In 1994 Respondent rejected his application on the ground that there is a ban, the ban was lifted in 1987. Hence, he was compelled to raise the dispute and pray that he may be reinstated with back wages and continuity of service. In the cross examination he deposed he was engaged as casual mazdoor for the cable laying, digging, erection and fixing of poles and alignment of lines in different places for different periods. This is related to the period from 1982 to 1985. He continued to do the same work of payment through ACG-17 from 1987 to 1988. Again he did the same work intermittently from 1994 on payment through ACG-17 for cable engaged by a contractor. He denied that he is not entitled for any relief.

5. The management examined Sri M. Ramulu as MW1. He deposed that it is the policy of the Department to engage the casual labour on daily wages in urgent situation. As per the Department regulations the record of muster rolls is retained for five years which is Ex.M1. The record of the claimant is not available. The central Government vide letter dated 8-3-2001 which is Ex.M3 declined to refer the dispute after lapse of over 10 years. There is also ban on engagement of casual labour from 1-4-85 vide Ex.M4. And this was reiterated on 22-6-88 marked as Ex.M5. Again it is reiterated on 12-2-99 marked as Ex.M6. In the cross examination he deposed that as per Ex.M1 the register of works has to be maintained for a period of 20 years. The said register contains particulars of works going under major head. He is not aware of the lifting of the ban by the Hon'ble Supreme Court. The entire cable line work and other allied works have been given to contractors through tenders. The work is presently given to contractors in

secondary switching area. He does not know whether 62 persons who were juniors to the Petitioner were regularized.

6. It is argued by the Learned Counsel for the Petitioner that the Petitioner was engaged from April, 1982 to August, 1985 and subsequently disengaged by the Respondent without assigning any reason. Thus it is clearly established that the work was perennial in nature. The Respondent witness admitted that they are engaging contractors for those works for which they used to engage casual employees previously. That the Petitioner is working under a contractor to do the Respondent Department's works. That I.D. cannot be rejected on the ground of delay. As per 1999 (3) SLJ Supreme Court page 219 that the provisions of Sec.25F were not followed. The Petitioner is age barred and cannot get employment in any organization. The Respondent cannot wash his hands saying that a ban is imposed on such employment. That engaging contractors for their works is totally illegal on the ground that they disengage casual labour to give work to the contractors. Hence, the Petitioner is entitled for reliefs claimed by him.

7. It is argued by the Learned Counsel for the Respondent that the Petitioner after lapse of 16 years in August, 2001 filed a Petition under Sec. 2A(2) wherein he asserted that he was engaged between 1982 to 1985 for more than 240 days in a year. As no notice of salary was paid and he was terminated orally. Hence, he may be reinstated. The Petitioner admittedly was engaged by the contractor and as such is not entitled to any relief as the per the provisions of the I.D. Act. In view of the law laid down by the Hon'ble Division Bench of High Court reported in 2002 (2) ALD 384 and also the law laid down in Crompton India Co. Vs. Addl. Labour Court (1975) 1 LLJ 207 that Sec.25 F is not applicable to casual labour. The claim of the Petitioner is not only for re-engagement as casual labour but also grant of back wages, seniority and consequential benefits which he is not entitled. He has not produced any details of engagement and appointment. The details of the engagement of the contractor are not within the knowledge of the Respondents and no relief could be sought on the ground. The contract labour are not entitled to claim regularization on the mere fact of completion of 240 days. That in view of the ban on the engagement of casual labour from 12-2-89, which has become a closed establishment and provisions of I.D. Act are not applicable to close establishment. That disengagement of services of temporary employees on daily wages cannot be construed and Sec.25 F would not apply. In spite of absence of statutory limitation such powers cannot be exercised to revive settled matters or to refer to stale disputes. The dispute raised after 16 years is misconceived, baseless and untenable and as such it may be dismissed.

8. It may be seen that the Petitioner according to him has worked from 1982 to 1985 and approached this Tribunal in 2001. Further on this ground of the delay, the Central Government refused to refer the matter. And according to him as per Ex.W5 letter dated 4-12-2001 issued by the Ministry of Labour it was rejected by the Government of India to refer the dispute as it is raised after a lapse of 15 years. According to him is still he worked from 18-10-94 to August, 1995 in ACG-17 as casual mazdoor. Again he worked under cable contractor from January, 1996 to 2001 on muster roll register is Ex.W3. He also agrees that he did the same work intermittently from 1994 on cable work. The work is presently given to contractors in Secondary Switching Area.

9. It may be suffice to state that actually the main contention of the Petitioner is that he worked from April, 1982 to August, 1985, obviously we are in the end of 2002, even if all his contentions are correct, yet, by the very efflux of time it will not be possible to set the wheels of time in reverse motion. He has been working under contractors even according to him from 1996 to 2001 on daily wages and the certificate is Ex.W2. Hence, I am afraid that his prayer for ordering to direct reinstatement with continuity of service and back wages cannot be acceded to. However, as the Petitioner has worked from 1983 to 1985 and also again intermittently from 18-10-94 to August, 1995 the ends of justice will be met if a direction is given as follows: "The Respondent is directed that the Petitioner's name shall be included in the seniority list and his seniority date shall be taken as 1-4-1982 and if any work is there with the Respondent No.2 as casual labour, he shall be given preference over his juniors and if any temporary vacancy arises then he shall be absorbed as such. He shall be given benefit of relaxation of age considering his date of birth as on 1-4-82.

Award passed. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 23rd day of December, 2002.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri Md. Sadiq	MW1: Sri M. Ramulu

Documents marked for the Petitioner

Ex W1: Verification dated 18-10-1994.
Ex W2: Service certificate from contractor. dated 5-10-2001.
Ex W3: Register of muster rolls.
Ex W4: Copy Failure report No. 6/2/2001-ALC-MCI dated 27-4-2001.
Ex W5: Copy of declining order No. L-40011/17/2001-IR (DU) dated 4-12-2001.
Ex W6: Copy of letter No. M/STV/20-14/WGL/II/dated December, 1994.

Documents marked for the Respondent

Ex M1: Copy of muster rolls as per FHB-Vol. III dated 5-7-1985.
Ex M2: Copy Failure report No.6/2/2001-ALC-MCI dated 21-4-2001
Ex M3: Copy of declining order No.L-40011/17/2001-IR (DU) dated 4-12-2001.
Ex M4: Copy of DGP&T It. No. 270/6/84-STN dated 30-3-85.
Ex M5: Copy of DGP&T It. No.270/6/84-STN dated 22-6-88.
Ex M6: Copy of office memorandum No.269-4/93-STN-II (Pt.) dated 12-2-99.

नई दिल्ली, 11 फरवरी, 2003

का. आ. 825.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एल.सी.आई.डी.-69/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-02-2003 को प्राप्त हुआ था।

[सं. एल-40025/1/2003-आई. आर. (डी. यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S. O. 825.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID-69/2001) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-02-2003.

[No. L-40025/1/2003-IR (D.U.)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD

Present

Shri E. ISMAIL

Presiding Officer

Dated the 23rd day of December, 2002

INDUSTRIAL DISPUTE L.C.I.D. No. 69/2001

Between :

Sri J. Jayarome,
S/o J. Prasada Rao,
R/o 11-25-318,
Kothawada, Warangal.

.....Petitioner,

AND

1. The General Manager,
A.P. Telecom, Suryalok Complex,
Abids, Hyderabad.2. The Junior Engineer (groups),
East Telephones,
Warangal.

.....Respondents

APPEARANCES :

For the Petitioner : M/s. R. Yogender Singh, V. Kiran Kumar
K. Sunil Kishore Goud & B.K.M.
Chakravarthy, Advocates.

For the Respondent : Sri R. S. Murthy, Advocate.

AWARD

This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. The brief averments of the petition are : It is submitted that Respondent No. 2 engaged the Petitioner w.e.f. March, 1986 to March, 1989 on muster rolls. During the period 1-3-1986 to 30.4.1987 the workman was engaged for a period of 294 days including weekly offs. The Petitioner submits that his name was removed from the muster rolls of the Department w.e.f. 1-5-1989. Thus it tantamounts to termination violating the provisions of the I.D. Act, 1947. That he belongs to an economically backward class and due to the arbitrary and inhuman action of the Respondent his entire family is thrown into financial hardship. That whenever he requested the 2nd Respondent dogged the matter by making false promises that they would reengage the Petitioner whenever a vacancy is arisen. In fact, the Respondent is extracting work from the Petitioner

even on today which is violative of the law of the land because the work being allotted to the Petitioner on contract basis is perennial and continuous in nature. That the workman has completed more than 240 days in a year. The action of the Respondent in terminating the services of the Petitioner without giving one month notice or one month salary is violative of the provisions of the I.D. Act. Hence, the Respondent may be directed to reinstate the Petitioner with back wages and continuity of service.

3. A counter was filed on behalf of both the Respondents. It is averred in the counter that the respondents are entrusted with the responsibility of setting up and maintenance of telephones through the control of Ministry of Communications under the Government of India Allocation of Business Rules, 1961. That for the purpose of laying cables, digging, carrying loads, huge manual work force was required and the works were of intermittent nature and not continuous. The work was also seasonal. The sanctioned strength based on regular and continuous work load is not adequate to meet several exigencies and emergent situations arising out of natural calamities and other unforeseen circumstances. That persons were engaged purely on temporary daily wages to cope up with the urgent execution of works which could not be postponed and are not capable of being completed exclusively with regular sanctioned strength. Further, the Petitioner is seeking relief for having worked during 1986—1989. And the records of the said period have been weeded out by efflux of time as per retention schedules stipulated in Appendix 3 to P & T Financial Hand Book Vol. III. In this connection it is submitted that the Petitioner is deemed to have been abandoned the mustering officer and seeking relief after a lapse of 12 years. The Central Government has declined to make reference under Sec. 10 of the I.D. Act in similar circumstances which equally applies to facts of the case herein. The Petitioner also raised an industrial dispute before ALC(C), Mancherla in the year 1999. The claim is misconceived, frivolous and vexatious. The Department has taken a policy decision to close the establishment engaging contract labour. Thereby leaving no scope for invoking the provisions of Sec. 25F of the I.D. Act. The daily wages in the absence of any sanctioned post could not stake any claim for permanent employment as held in Balwinder Singh Vs. State of Himachal Pradesh 1999 (II LLJ) 1116. That a full bench of Hon'ble High Court of A.P. reported in 2001 (3) DT (AP) 141 held that a regular employment can be made only in terms of recruitment rules and subject to the candidates possessing the requisite qualification and also subject to existence of any sanctioned post. It was further held that only because a person has worked for 240 days that itself will not be a ground to regularize the services of the concerned employee. That the Respondent as a matter of policy have discontinued engagement of casual labour in view of the change in operation, development and maintenance of telecom

network, thereby leaving no scope for engagement of the Petitioner for all purpose. Hence, the Petition may be dismissed.

4. The Petitioner examined himself as WW1 and deposed that he was engaged as casual mazdoor by the Respondent with effect from April, 1986 to March, 1989 on muster rolls. That he worked for 294 days during the period from 1-4-86 to 30-4-87. Ex. W1 is the certificate given by the contractor. The muster rolls register is Ex. W2. Hence, he raised the dispute and pray that he may be reinstated with back wages and continuity of service. In the cross examination he deposed he was engaged as casual mazdoor for the cable laying, digging, erection and fixing of poles and alignment of lines in different places for different periods. This is related to the period from 1986 to 1989. Again he did the same work intermittently from 1989 to 1995 on payment through ACG-17 for cable engaged by a contractor. He denied that he is not entitled for any relief.

5. The management examined Sri M. Ramulu as MW1. He deposed that it is the policy of the Department to engage the casual labour on daily wages in urgent situation. As per the Department regulations the record of muster rolls is retained for five years which is Ex. M1. The record of the claimant is not available. The Central Government vide letter dated 4-12-2001 which is Ex. M3 declined to refer the dispute after lapse of over 10 years. There is also ban on engagement of casual labour from 1-4-85 vide Ex. M4. And this was reiterated on 22-6-88 marked as Ex. M5. Again it is reiterated on 12-2-99 marked as Ex. M6. In the cross examination he deposed that as per Ex. M1 the register of works has to be maintained for a period of 20 years. The said register contains particulars of works going under major head. He is not aware of the lifting of the ban by the Hon'ble Supreme Court. The entire cable line work and other allied works have been given to contractors through tenders. The work is presently given to contractors in secondary switching area. He does not know whether 62 persons who were juniors to the Petitioner were regularized.

6. It is argued by the Learned Counsel for the Petitioner that the Petitioner was engaged from April, 1986 to March, 1989 and subsequently disengaged by the Respondent without assigning any reason. Thus it is clearly established that the work was perennial in nature. The Respondent witness admitted that they are engaging contractors for those works for which they used to engage casual employees previously. That the Petitioner is working under a contractor to do the Respondent Department's works. That ID cannot be rejected on the ground of delay. As per 1999 (3) SLJ Supreme Court page 219 that the provisions of Sec. 25F were not followed. The Petitioner is age barred and cannot get employment in any organization. The Respondent cannot wash his hands saying that a ban is imposed on such employment. That engaging contractors for their works is totally illegal on the ground that they

disengage casual labour to give work to the contractors. Hence, the Petitioner is entitled for reliefs claimed by him.

7. It is argued by the Learned Counsel for the Respondent that the Petitioner after lapse of 16 years in August, 2001 filed a Petition under Sec. 2A(2) wherein he asserted that he was engaged between 1986 to 1989 for more than 240 days in a year. As no notice of salary was paid and he was terminated orally. Hence, he may be reinstated. The Petitioner admittedly was engaged by the contractor and as such is not entitled to any relief as per the provisions of the I.D. Act. In view of the law laid down by the Hon'ble Division Bench of High Court reported in 2002 (2) ALD 384 and also the law laid down in Crompton India Co. Vs. Addl. Labour Court (1975) 1 LLJ 207 that Sec. 25-F is not applicable to casual labour. The claim of the Petitioner is not only for reengagement as casual labour but also grant of back wages, seniority and consequential benefits which he is not entitled. He has not produced any details of engagement and appointment. The details of the engagement of the contractor are not within the knowledge of the Respondents and no relief could be sought on the ground. The contract labour are not entitled to claim regularization on the mere fact of completion of 240 days. That in view of the ban on the engagement of casual labour from 12-2-89, which has become a closed establishment and provisions of I.D. Act are not applicable to close establishment. That disengagement of services of temporary employees on daily wages cannot be construed and Sec. 25F would not apply. In spite of absence of statutory limitation such powers cannot be exercised to revive settled matters or to refer to stale disputes. The dispute raised after 16 years is misconceived, baseless and untenable and as such it may be dismissed.

8. It may be seen that the Petitioner according to him has worked from 1986 to 1989 and approached this Tribunal in 2001. Further on this ground of the delay, the Central Government refused to refer the matter. And according to him as per Ex. M3 letter dated 8-3-2001 issued by the Ministry of Labour it was rejected by the Government of India to refer the dispute as it is raised after a lapse of 12 years. According to him still he worked from 1989 to 1995 on ACG-17 as casual mazdoor. He also agrees that he did the same work intermittently from 1989 on cable work. The work is presently given to contractors in Secondary Switching Area.

9. It may be suffice to state that actually the main contention of the Petitioner is that he worked from April, 1986 to March, 1987, obviously we are in the end of 2002 even if all his contentions are correct, yet, by the very efflux of time it will not be possible to set the wheels of time in reverse motion. He has been working under contractors even according to him from 1989 to 1995 on daily wages. Hence, I am afraid that his prayer for ordering to direct reinstatement with continuity of service and back wages

cannot be acceded to. However, as the Petitioner has worked from 1986 to 1989 and also again intermittently from 1989 to 1995 the ends of justice will be met if a direction is given as follows : "The Respondent is directed that the Petitioner's name shall be included in the seniority list and his seniority date shall be taken as 1-4-1986 and if any work is there with the Respondent No. 2 as casual labour, he shall be given preference over his juniors and if any temporary vacancy arises then he shall be absorbed as such. He shall be given benefit of relaxation of age considering his date of birth as on 1-4-86."

Award passed. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 23rd day of December, 2002.

E. ISMAIL, Presiding Officer.

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri J. Jayarome	MW1: Sri M. Ramulu

Documents marked for the Petitioner

Ex W1: Service certificate from contractor.
Ex W2: Muster rolls register from 1-4-86 to 1-4-1989.

Documents marked for the Respondent

Ex M1: Copy of muster rolls as per FHB-Vol. III dt. 5-7-1985
Ex M2: Copy Failure report No. 6/3/2000-ALC-MCI dt. 22-6-2000
Ex M3: Copy of declining order No. L-40011/44/2000-IR(DU) dt. 8-3-2001
Ex M4: Copy of DGP&T It. No. 270/6/84-STN dt. 30-3-85
Ex M5: Copy of DGP&T It. No. 270/6/84-STN dt. 22-6-88
Ex M6: Copy of office memorandum No. 269-4/93 STN-II (Pt.) dt. 12-2-99

नई दिल्ली, 11 फरवरी, 2003

का. आ. 826.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सोइल एण्ड वॉटर कन्सर्वेशन रिसर्च इंस्टिट्यूट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 507/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-02-2003 को प्राप्त हुआ था।

[सं. एल-42011/11/98-आई आर (डी. यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 826.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 507/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Soil and Water Conservation Research Instt. and their workman, which was received by the Central Government on 11-02-2003.

[No. L-42011/11/98-IR(D.U.)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 8th January, 2003

Present :

K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 507/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 104/98)

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the workmen and the Management of the General Manager, Soil and Water Conservation Research Institute.]

BETWEEN

The President, : I Party/Claimant
Electricity and General Workers Union

AND

The General Manager, : II Party/Management
Soil and Water Conservation
Research Institute,
Nilgiris, Udthagamandalam.

Appearance :

For the Claimant	: M/s. R. Arumugam, N. Krishnakumar and J. Shankar, Advocates
For the Management	: M/s. N. Balasubramanian and S. S. Venkataraman, Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-42011/11/98/IR(DU) dated 11-08-98.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 104/98. When the matter was

pending enquiry in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 507/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 07.03.2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further. The Claim Statement and Counter Statement of the respective parties have been filed before the Tamil Nadu State Industrial Tribunal, when the matter was pending before that Tribunal for adjudication.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on either side, the other material papers on record, the written arguments filed by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following: —

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows: —

“Whether the following demands of the Electricity and General Workers Union, i) payment of bonus to casual workers, ii) regularisation of Casual Labourers viz. S/Sri L.Rajappan, Kuppusamy, N.Kumar, Krishnamoorthy, Ms. Vasantha, Vijayakumar and K.Srinivasan and iii) for extending National & Festival Holidays - are legal and justified? If not, what relief the workmen are entitled?”

2. The averments in the Claim Statement filed by the I Party/ Claimant (hereinafter refers to as Petitioner) are briefly as follows: —

The President, Electricity and General Workers Union, Coonoor representing the workmen of Soil & Water Conservation Research Institute has raised this dispute espousing the cause of the workmen in Soil & Water Conservation Research Institute for payment of bonus to casual workers and regularisation of casual labourers S/Sri L.Rajappan, Kuppusamy, N.Kumar, Krishnamoorthy, Vasantha, Vijayakumar and K.Srinivasan and for extending national and festival holidays to those workmen as a demand on their behalf stating that the denial of those facilities to the concerned workmen by the II Party/ Management the General Manager, Soil & Water Conservation Research Institute, Udagamandalam as illegal and unjustified.

3. The brief facts of the case are as follows:-

The workers of Soil & Water Conservation Research Institute are engaged to do the work in tea plantations, farm work, weeding, crop work earth work, tree planting and other works connected to the main business. The work is existing continuous throughout the year without any break. Even though the Respondent is a Central Govt. organisation, it instead of a model employer is adopting various unfair labour practices against the workers. Even the Respondent refused to pay bonus to the workers to workers and even failed to regularise the services of the casual workers and further failed to extend leave facilities to the workers. Hence, the Petitioner Union made a demand to the Respondent to pay bonus as per the Payment of Bonus Act and regularise the services of the casual employees and extend the leave facilities to them. The Respondent without any reasons refused to accept the demands of the Petitioner. The conciliation ended in a failure and then the Central Govt. by order dated 11.8.98 has referred the dispute for adjudication by this Hon'ble Tribunal. The workers employed in Respondent plantation is entitled to receive maximum bonus of 20% every year from 1994, 1995, 1996, 1997 and 1998. But the Respondent denied bonus to the workers on a flimsy ground that the workers should put into 240 days of work in each year for bonus. The provisions of the payment of bonus Act did not insist for the service of 240 days in each year for entitlement of bonus. On the other hand, the minimum period prescribed is 30 days only. The workers had worked in more than 240 days in each year. The Respondent in order to defeat the workers interest maintain records to show as if they worked less than 240 days. But the fact remains that the workers are working more than 240 days in each year. Thus, the denial of bonus to workers stating that they did not complete 240 days is illegal and against the law. The Respondent during the course of conciliation relied on certain adhoc bonus order issued by Central Govt. The conciliation authority very clearly stated that the Central Govt. cannot frustrate the act by issuing such orders and advised the Respondent to pay the Bonus of 20% to workers. It is well settled that the Act will prevail over the Govt. orders, hence on that ground also the demand of the Petitioner Union is just and reasonable. Thus all the workers are entitled to receive 20% bonus for the year 1994, 1995, 1996, 1997 and 1998 with interest at 24% from respective periods. The workers namely K.Beeman, L.Rajappan, Kuppusamy, N.Kumar, Krishnamoorthy, Vasantha, Vijayakumar and K.Srinivasan are working in the Respondent from 1974 onwards. These workers are working continuously and doing work of weeding earth work, farm work, tree planting, crop work and other work. The said works are all permanent and existing throughout the year. Thus the work performed by these workers are the same and identical to the work performed by other permanent workers. These workers are doing the work more than 240

days in each year. The Respondent in order to deny the regularisation and permanency keep the records as if they are doing less than 240 days. The fact remains they are doing work more than 240 days. The action of the Respondent is an unfair labour practice. The demand of the Petitioner Union that these workers should be made permanent by regularising their service is just and reasonable. The workers who have put in 25 years of service cannot be denied the benefit of regularisation and permanency. Since their services are not regularised, several benefits are denied to them. These workers are crossing 40 years of age and it is very difficult to get employment elsewhere and it is difficult to maintain their families without getting other benefits. Thus, the demand of the Petitioner is just and reasonable. The workers are all come from the S.C. and Badugas and they have no other source of income except the salary. The Respondent is refusing to grant national and festival holidays to these workers. The Respondent's action in granting only 3 days towards national and festival holidays instead of 13 days and refusing to grant the remaining ten days to workmen is illegal and against law. The demand of the Petitioner Union to extend the benefits to all the workers is just and reasonable and this benefit should be extended to the workers from 1.9.93 onwards. The Respondent has not given the benefits to the workmen. The reason that the centre was closed on Govt. holidays and therefore, the workers are not entitled to any wages is totally opposed to law and practice. The Respondent themselves admitted that for Republic Day, Independence Day and Mahatma Gandhi's birthday full wages are paid to workers. On those three days also the centre is closed as like other national and festival holidays, but the wages was paid for three days only and not for other days. This shows the reason stated by Respondent is not reasonable. Hence, the Petitioner Union demanded that wages should be paid for all the 13 national and festival holidays and there cannot be any restriction. Hence, it is prayed that this Hon'ble Tribunal may be pleased to pass an award directing the Respondent to consider the demand of the Petitioner Union for payment of 20% bonus to all the casual workers and regularisation of all the concerned workmen and benefits for the national and festival holidays and to pay the same to the concerned workmen.

4. The Respondent/Management has filed Counter Statement denying the allegations of the Petitioner Union in their Claim Statement. The averments of the Respondent in the Counter Statement are briefly as follows :—

The Respondent Institute functions under the administrative control of the Indian Council of Agricultural Research, a Central Govt., autonomous body, Ministry of Agriculture, Government of India. The Respondent Institute is purely a research organisation and does not have any profit motive as per its mandate. The major

activities of research is of basic in value and as no commercial applications directly. This institute is also not a service centre for any developmental work nor any of the research findings are patented and commercially exploited. The research findings especially in the identification of the new promising varieties suitable to different agro climatic conditions had benefited the country as a whole. The major thrusts of research activities would also indicate the fact that the activities are mainly concerned with basic aspects of national importance. It is nobody's case that the Central Soil & Water Conservation Research Training Institute is engaged in an activity which can be called business, trade or manufacture. Neither from the nature of its organisation nor from the nature and character of the activities carried on by it. It can be said to be an undertaking analogous to business or trade. It is not engaged in a commercial industrial activity and it cannot be described as an economic venture or a commercial enterprise as it is not the object to produce and distribute services which would satisfy wants and needs of the consumer community. It is more an institution discharging Govt. functions and a domestic enterprises than a commercial enterprise. The institute is not an industry even though it is carrying on the activity of research in a systematic manner with the help of its employees as it lacks that element which would make it an organisation carrying on an activity which can be said to be analogous to carrying on a trade or business because it is not producing and distributing services which are intended or meant for satisfying human wants and needs as ordinarily understood. From the above, it is clear that the activities carried on by the institute is not an industry as defined under Industrial Disputes Act, and hence the Respondent requests this Hon'ble tribunal to reject the reference as not maintainable as per law. Prior to the order of reference, it is seen that the President, Electricity and General Workers Union, Coonoor raised a dispute under section 2K of the Industrial Disputes Act, 1947. The said union does not represent a substantial number of workmen of the Respondent and to the best of the Respondent's information this union has on its rolls only a microscopic minority which is in no sense can claim to be a substantial number. Further the union has not been authorised in the manner known to law to raise any dispute which could be referred for adjudication validly. Hence, the very reference itself is illegal and ultra virus the powers of the Govt. and this Hon'ble Court has no jurisdiction to entertain the reference at all and the same has to be rejected as incompetent. The Indian Council of Agricultural Research under which the Central Soil & Water Conservation Research and Training Institute, Research centre comes has not recognised the union. The Respondent had participated in the conciliation proceedings on the basis of call letters from the Labour Commissioner, Government of

India to furnish the clarifications from time to time on the issues raised by the workers. This centre is not managed by Government of India as quoted by the Petitioner Union as it comes under the administrative control of Indian Council of Agricultural Research, Krishi Bhavan, New Delhi which is an autonomous body and the averment that 100 workers engaged are denied. There are only 8 casual workers and 28 casual workers with temporary status on the rolls of the Respondent and they are being engaged for the work on need basis. As per orders issued by the Ministry of Finance, Government of India, which is endorsed by the Indian Council of Agricultural Research for implementation every year. Under this ad-hoc bonus order which is applicable for autonomous bodies completion of 240 days for each year for three years or more is the criteria applicable for bonus for casual workers/ temporary status casual workers. As the Indian Council of Agricultural Research is adopting the ad-hoc bonus scheme of Government of India this Respondent is not empowered to follow the bonus Act for the agricultural workers as demanded by the Petitioner Union since the Bonus Act is not applicable to the Respondent institution. Further the averment of the Petitioner Union that the workers who have completed 240 days were also not paid the bonus is denied. During 1996-97 seven workers who had completed 240 days were paid bonus. The scheme was formulated by the Department of Personnel & Training, Government of India and adopted by the Indian Council of Agricultural Research. Under this rules, the casual workers who were in employment as on 1-9-93 and had completed 240 days of continuous service in that year are eligible to grant temporary status w.e.f. 1-9-93. The workers listed in the petition due to non-completion of 240 days could not be granted temporary status along with other 36 workers who were granted with temporary status. As many casual workers had put in 240 days in the earlier years and had not completed 240 days in the year 1993 as on 1-9-93 and for this reason they were not eligible for grant of relevant benefit. To remove this hardship, the Indian Council of Agricultural Research had approached the Department of Personnel & Training, Government of India which had competency to amend the rules. The Department of Personnel and Training has issued clarification that the benefit of temporary status is admissible to only those casual employees who were in service on the date of issue of office memo dated 10-9-93 and had completed 240 days or 206 days of service as the case may be on that date. Further the Indian Council of Agricultural Research issued instructions in view of the Department of Personnel & Training clarification to propose additional posts under Group D posts under IX plan. The Respondent has made request to the competent authority to provide sufficient number of posts in EFC memo of IX Plan. The competent authority at Headquarters had informed this Respondent of making provision in EFC memo of IX plan. Department of Personnel & Training, Government of India had further

allowed to count the national holidays and weekly off also to grant temporary status to casual workers who could not be covered under earlier order. Based on that order the proposal to scrutiny and consider the eligible of M/s. K. Bheeman and L. Rajappan casual workers was sent by the Respondent to competent authority for approval. The averment that the Respondent suppresses the fact of workers doing more than 240 days is denied. The workers are being given wage slip every months which contains the details of rate of wages, number of days worked and total amount of wages etc. from which workers can calculate their total number of working days every year. 36 casual workers were granted temporary status to derive the benefits of wages with reference to minimum of pay scale for correspondent, regular Group D staff including drawal of DA, HRA, HCA and T.A. Further they are getting annual increments pro rata leave maternity leave GPF facility and festival other advances and ad-hoc bonus. They also become eligible for counting of half of the regular service rendered for pensionary benefits on their appointment under Group D posts. As the grant of temporary status is not with reference to availability of permanent posts in Group D these workers are eligible for regularisation on availability of posts under Group D. Seven temporary status casual workers have already been absorbed against the permanent vacant posts. Further Indian Council of Agricultural Research had issued instructions to all the institutes all over the country to fill up the vacancies of supporting staff Gr. 1 under Group D out of the eligible casual labourers granted temporary status. To complete the processing of appointment of casual workers with temporary status, it was decided by Indian Council of Agricultural Research that if an a particular institute there are vacant posts of supporting staff in S.S. Grade 1 and there are not sufficient Casual Labourers with temporary status, these vacancies will be filled up from amongst the casual workers with temporary status from other Indian Council of Agricultural Research Institute/Regional Centre located at that place/state in which the institute is located. Taking advantage of the above instructions, the Respondent has written to 10 research institutes available in the State of Tamil Nadu to intimate the vacancy position to accommodate the labourers of this centre. The vacancy circulars received from other Indian Council of Agricultural Research Institutes were circulated to Labourers. In spite of the best efforts by Respondent the labourers are not co-operating and not willing to accept the vacancies at other Indian Council of Agricultural Research Centres/Institutes. Hence, it is justified that the workers are provided with their entitlement as per rules by Respondent. The averment that all the workers are SCs and Badagas is also denied. As per the order granting temporary status and standing instructions, they are eligible for 3 national holidays on account of Republic Day, Independence Day and Mahatma Gandhi's birthday. In addition, they are being given paid holidays for the holidays declared by Government of India

from time to time under Negotiable Instrument Act, 1981. Once these casual workers are brought under permanent establishment for which number of posts are required to be sanctioned by Government of India under IX plan, they will become eligible for holidays on par with regular employees. In other words, the rules, terms and conditions under which Indian Council of Agricultural Research has given temporary status as per the scheme of Government of India to the casual workers do not have any provision to allow the festival holidays to these workers. The workers are being paid bonus as per their eligibility of rules adopted by the Indian Council of Agricultural Research and action of the Respondent with respect to grant of temporary status absorption under Group D and grant of only national holidays are legally and administratively justified in accordance with rules, applicable for Indian Council of Agricultural Research. None of the grounds raised in the claim petition is either tenable or sustainable. The claim petition is devoid of merits and hence liable to be dismissed with costs. Hence, it is prayed that this Hon'ble Court may be pleased to uphold the contentions of the Respondent and reject the contention of the Petitioner Union and dismiss the industrial dispute.

5. When the matter was taken up for enquiry finally, no one has been examined as a witness on either side. Documents filed on either side have been marked by consent of the learned counsel on either side as Ex. W1 to W5 and M1 to M12. Learned counsel on either side have filed their respective written arguments.

6. The point for my consideration is :—

“Whether the following demands of the Electricity and General Workers Union, (i) payment of bonus to casual workers, (ii) regularisation of Casual Labourers viz. S/Sri L. Rajappan, Kuppusamy, N. Kumar, Krishnamoorthy, Ms. Vasantha, Vijayakumar and K. Srinivasan and (iii) for extending National & Festival Holidays—are legal and justified? If not, to what relief the workmen are entitled?”

Point :—

This industrial dispute has been raised by the President, Electricity and General Workers Union, Coonoor, on behalf of employees of the II Party/Management Soil & Water Conservation Research Institute, Udagamandalam, demanding payment of bonus to casual workers, regularisation of service of the casual labourers S/Sri L. Rajappan, Kuppusamy, Kumar, Krishnamurthy, Vasantha, Vijayakumar and K. Srinivasan and for extending benefit to the workmen for national and festival holidays. It is the contention of the the Petitioner Union that more than 100 workers have been employed by the Respondent/Management at Nilgiris to do the work in tea plantation's farm work, weeding, crop work and earth work and they are also engaged for tea planting and other works connected

to the main business. It is the contention of the Respondent/Management that the Respondent Institute functions under the administrative control of Indian Council of Agricultural Research, a Central Government autonomous body, Ministry of Agriculture, Government of India and that the institute is purely a research organisation and does not have any profit motive. It is further contended that the major activities of research is of basic in value and as no commercial applications directly and that the Institute is also not a service centre for any developmental work nor any other research findings are patented and commercially exploited. The Central Soil & Water Conservation Research Institute is not engaged in an activity which can be called business, trade or manufacture. The Respondent Institute is not engaged in any commercial industrial activity and it is not its object to produce and distribute services, which would satisfy wants and needs of the consumer community. It is more an institution discharging Governmental functions and the domestic enterprise than a commercial enterprise and the Respondent Institute is not an industry, even though it is carrying on the activity of research in a systematic manner with the help of its employees and the activities carried on by the Institute shows clearly that it is not an industry as defined under Industrial Disputes Act. It is contended on the side of the Respondent/Management that the Respondent is only a research organisation and it is under the administrative control of Indian Council of Agricultural Research and that the Respondent Research Institute is not functioning for any profit motive by indulging in any commercial activity and it does not indulge in any business, trade or any manufacturing activity, that the Respondent Research Institute is indulging in research work as an institute doing the Government's functions and hence the Respondent Research Institute cannot be considered as an industrial as per the Industrial Disputes Act. This factual position is not disputed by the Petitioner Union. No reply statement has been filed by the Petitioner Union denying the contention of the Respondent/Management that the Respondent Research Institute is not an organisation indulging in any business or trade or manufacture. Hence, the contention of the Respondent/Management that the Soil & Water Conservation Research Institute is not an industry as defined under Industrial Disputes Act can be accepted as correct.

7. It is the definite contention of the Respondent/Management in their Counter Statement that the Research Institute is not managed by Government of India but it comes under the administrative Control Indian Council of Agricultural Research, which is an autonomous body. This fact has not been denied by the Petitioner Union. The specific contention of the Petitioner in their Claim Statement that the Respondent Institute Employs more than 100 workers in their Centre at Nilgiris has been denied by the Respondent in their Counter Statement. Further, it is

specifically alleged in the Counter Statement of the Respondent that there are only 8 casual workers and 28 casual workers with temporary status on the rolls of the Respondent and they are being engaged for the works of need basis. To disprove this contention of the Respondent/Management, no acceptable evidence has been let in by the Petitioner Union.

8. The Petitioner Union has raised a demand against the Respondent/Management for payment of Bonus to casual workers. It is their averment that the workers employed in the Respondent/plantation are entitled to receive maximum bonus of 20% every year, but the Respondent/denied bonus to the workers on the ground that the workers should put in 240 days of work in each year for bonus and that the Payment of Bonus Act did not insist for service of 240 days in each year for entitlement of bonus and that the minimum period prescribed is 30 days only. So the denial of bonus to workers by the Respondent stating that the workers did not complete 240 days is illegal and against law and hence, the demand of the Petitioner Union is just and reasonable as all the workers are entitled to receive 20% bonus for the years 1994, 1995, 1996, 1997 and 1998 with interest at 24%. Objecting to this claim of the Petitioner Union, it is the contention of the Respondent/Research institute that the employees and casual workers including casual workers with temporary status of the centre are eligible for only ad-hoc bonus as per orders issued by Ministry of Finance, Government of India, which is endorsed by Indian Council of Agriculture Research for implementation for every year and that under this ad-hoc bonus order which is applicable for autonomous bodies completion of 240 days for each year for three years or more is the criteria applicable for bonus for casual workers/temporary status casual workers. In support of this contention the xerox copy of the office memorandum dated 21-9-98 issued by the Ministry of Finance, Department of Expenditure on the subject of grant of ad-hoc bonus to Central Govt. employees extending to the autonomous bodies has been filed along with the xerox copy of the Indian Council of Agricultural Research endorsement dated 6-10-98 as Ex. M8. Under this document, it is stated that the terms and conditions for availing the benefit of bonus. It is not disputed that the Respondent/Research Institute which is under the administrative control of India Council of Agricultural Research, an autonomous body. So, the terms and conditions mentioned under office memorandum under Ex. M8 is binding on the Respondent/Research Institute also for giving bonus to the employees of the Research Institute. It is contended by the Respondent/Research Institute in their Counter Statement that as per the Bonus order of the Government of India, the casual workers with temporary status were paid bonus during the year 1997 and 1998. In support of that contention, the Respondent has filed xerox copy of the acquittance roll

as Ex. M9. So from this, it is seen that the Respondent/Research Institute had acted as per the direction of the terms and conditions set out by the Govt. Ministry of Finance, Department of Expenditure is giving bonus to the workmen of the Research Institute. Since it happens to be an institution under the administrative control of the autonomous body, Indian Council of Agricultural Research, New Delhi, the Respondent Institute cannot ignore that instruction or direction and can follow the provisions of Payment of Bonus Act. No steps has been taken by the Petitioner Union challenging the official memorandum issued by the Government of India, Ministry of Finance, Department of Expenditure dated 16-9-98 as illegal or ultra virus and the said official memorandum is not binding on the Respondent/Research Institute. So from this, it is seen that the contention of the Respondent Research Institute in their Counter Statement that the workers are being paid bonus as per their eligibility of rules adopted by the Indian Council of Agricultural Research is proper and correct and the demand made by the Petitioner Union on behalf of the workers in the Soil & Water Conservation Research Institute, Nilgiris for payment of Bonus to casual workers as per the Payment of Bonus Act cannot be accepted as correct.

9. The Petitioner Union has made a demand for regularisation of Casual Labourers i.e. S/Sri L. Rajappan, Kuppusamy, N. Kumar, Krishnamurthy, Vasantha, Vijayakumar and K. Srinivasan. It is their contention that these workmen are working in the Respondent Research Institute from 1974 onwards continuously and doing the work of weeding, farm work, replanting, crop work, earth work and others and all these work are permanent in nature and existing throughout the year and thus, the work performed by those workers for the same and identical to the work performed by the other permanent workers and these workers are doing the work more than 240 days in each year, but the Respondent in order to deny them regularisation and permanency keep the records as if they are doing less than 240 days. This contention of the Petitioner Union has been denied by the Respondent Research Institute in their Counter Statement. It is their specific contention that a scheme was formulated by Department of Personnel & Training, Government of India and adopted by Indian Council of Agricultural Research and that under this rule, the casual workers who were in employment as on 1-9-93 and had completed 240 days of continuous service in that year are eligible to grant temporary status w.e.f. 1-9-93. In support of this contention, the Respondent has filed the xerox copy of the orders passed by the Deputy Secretary of Indian Council of Agricultural Research dated 23-11-94 and forwarded to the Institutes like the Respondent Institute has filed as Ex. M1. Only as per this instruction, the Respondent Research Institute has granted temporary status to their workmen. It is not disputed by the Petitioner

Union. It is also the contention of the Respondent Research Institute in their Counter Statement that the workers listed in the petition due to non-completion of 240 days could not be granted temporary status along with other 36 workers who were granted with temporary status. In support of the same, the Respondent has filed a xerox copy of the document dated 20-7-95 as on office order passed by the Central-Soil & Water Conservation Research & Training Institute Research Centre, Ootacamand as Ex. M2. It is seen from this document that the workers mentioned in that office order have been conferred temporary status w.e.f. 1-9-93 in accordance with instructions contained in the Council's letter dated 23-11-94 under Ex. M1. The Petitioner Union also has not come forward to let in any acceptable evidence in support of their contention in their Claim Statement that the concerned workmen have put in 240 days, as it is mentioned under Ex. M1. It is further specifically stated in the Counter Statement of the Respondent Research Institute that as many casual workers had put in 240 days in the earlier years and had not completed 240 days in the year 1993 as on 1-9-1993, and for this reason, they were not eligible for grant of relevant benefit. This has not been denied by the Petitioner Union as incorrect and no contra evidence also is available on the side of the Petitioner Union to conclude that the said contention of the Respondent is not correct. Further, it is alleged in the Counter Statement of the Respondent that to remove these hardships, the Indian Council of Agricultural Research had approached the Department of Personnel & Training, Government of India, which has the competency to amend the rules and that the Department of Personnel & Training had issued clarification that the benefit of temporary status is admissible to only those casual employees, who were in service on the date of issue of office memorandum, dated 10-9-93 and had completed 240 days or 206 days of service as the case may be on that date. In support of that version, the Respondent Research Institute has filed the xerox copy of the clarification letter received from Indian Council of Agricultural Research as Ex. M3. In pursuance of that clarification the Indian Council of Agricultural Research issued instructions to propose additional posts under Group D posts under X plan. The xerox copy of that letter dated 5-1-98 has been filed by the Respondent Institute as Ex. M4. It is the further contention of the Respondent Institute that it made request to competent authority to provide sufficient number of posts in EFC memo in X Plan. In support of that contention xerox copy of the letter dated 13-11-98 has been filed by Respondent Institute. It is Ex. M10. The Competent Authority in headquarters had informed the Respondent Institute for making provision in the EFC memo of X Plan. The xerox copy of that communication dated 14-12-98 is Ex. M11. So from all these things, it is seen that the Respondent

Research Institute has taken all necessary steps in the subject of regularisation of casual workers with temporary status. So until the finalisation in that matter is arrived at, it can be said that the demand made by the Petitioner Union for regularisation of these concerned Casual Labourers cannot be accepted as correct and the Respondent Research Institute cannot acceded for the demand made by the Petitioner Union on this aspect.

10. The next demand of the Petitioner Union is that the benefit of National Holidays and Festival Holidays to be extended to the workers in the Respondent Research Institute. It is the contention of the Petitioner Union in their Claim Statement that the Respondent is refusing to grant national and festival holidays to these workers and only three days towards national and festival holidays instead of thirteen days have been granted and the Respondent is refusing to grant remaining 10 days to the workmen and it is illegal and against law. It is further contended that Republic Day, Independence Day and Mahatma Gandhi's Birthday full wages are paid to workers, while on those three days also, the centre is closed as like other national and festival holidays, but wages are paid only for these three days only and not for other days. So, the Respondent is not reasonable and hence, the Petitioner's demand that wages should be paid for all the 13 national and festival holidays without any restriction. For this demand, it is the contention of the Respondent Research Institute that as per the order granting temporary status and standing instructions, the workmen are eligible for three national holidays on account of Republic Day, Independence Day and Mahatma Gandhi's birthday and that in addition they are being given paid holidays for the holidays declared by Government of India from time to time under Negotiable Act, 1981. This has not been disputed as incorrect by the Petitioner Union. It is further contended by the Respondent that these casual workers are brought under permanent establishment for which number of posts are required to be sanctioned by Government of India under X Plan and they will become eligible for holidays on par with regular employees and that the rules, terms and conditions under which the Indian Council of Agricultural Research has given temporary status as per the Scheme of Government of India to the casual workers do not have any provision to allow the festival holidays to these workers. This contention of the Respondent Institute cannot be rejected as incorrect and it is also not disputed by the Petitioner Union as incorrect contention.

11. So, from all these things, it is seen that as it is contended by the Respondent/Management in their Counter Statement that the claim of the Petitioner Union on behalf of the concerned workmen is devoid of merits and hence, the Respondent Research Institute cannot be

directed to comply with the demand of the Petitioner Union made in this dispute. Hence, the contention of the Petitioner in respect of these demands has to be rejected as not maintainable. Thus, the point is answered accordingly.

12. In the result, an Award is passed holding that the demands made by the I Party/Claimant Union on behalf of the casual employees concerned, against the II Party/Management are not justified and hence, the concerned employees are not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 8th January, 2003.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side None

Documents Exhibited :—

For the I Party/Claimant :—

Ex. No.	Date	Description
W1	Nil	Xerox copy of the revised consolidated seniority list of mazdoors including the concerned workmen.
W2	Nil	Xerox copy of the consolidated statement showing the number of days worked by the mazdoors including concerned workman in the year 1994.
W3	Nil	Xerox copy of the consolidated statement showing the number of Days worked by the mazdoors including concerned workman in the year 1995-96.
W4	Nil	Xerox copy of the consolidated statement showing the number of Days worked by the mazdoors including concerned workman in the year 1997.
W5	Nil	Xerox copy of the consolidated statement showing the number of Days worked by the mazdoors including concerned workman in the year 1998.

For the II Party/Management :—

Ex No.	Date	Description
M1	23-11-94	Typed copy of letter from Indian Council of Agricultural Research, New Delhi to All Directors/Project Directors of ICAR Institute/Directorate/NRCs regarding grant of Temporary status and regularisation of casual workers.
M2	20-07-95	Typed copy of the office order of Respondent/Management Granting temporary status to 36 employees.
M3	11-09-95	Typed copy of letter from Indian Council of Agricultural Research, New Delhi to All Directors/Project Directors of ICAR Institute/Directorate/NRCs regarding grant of Temporary status and regularisation of casual workers.
M4	05-01-98	Typed copy of letter from Indian Council of Agricultural Research, New Delhi to Director of Respondent/Management at Dehradun regarding grant of Temporary status and regularisation of casual labourers.
M5	03-08-98	Typed copy of letter from Indian Council of Agricultural Research, New Delhi to All Directors/Project Directors of ICAR Institute/Directorate/N.C.Rs regarding grant of Temporary status and regularisation of casual labourers.
M6	27-08-98	Typed copy of letter from Indian Council of Agricultural Research, New Delhi to All Directors/Project Directors of ICAR Institute/Directorate/N.C.Rs regarding computation of 3 National Holidays and Sundays while considering eligibility of Casual Labourers for grant of temporary status.
M7	06-10-98	Typed copy of letter from Indian Council of Agricultural Research, New Delhi to All Directors/Project Directors of ICAR Institute/Directorate/N.C.Rs forwarding office memo of Ministry of Finance, Government of India in respect of Grant of <i>ad-hoc</i> bonus.
M8	22-10-98	Typed copy of the bonus bill of Respondent/Management.
M9	30-11-98	Typed copy of the letter from Respondent/Management to Director, Soil and Water Conservation Research Institute at Dehradun.
M10	14-12-98	Typed copy of the reply letter from Dehradun to Ootacamund of Respondent/Management Institute.
M11	Nil	Typed copy of list of temporary status of casual workers and category.

नई दिल्ली, 11 फरवरी, 2003

का. आ. 827.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 45/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/507/2000-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 827.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/507/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

LUCKNOW

PRESENT

RUDRESH KUMAR

PRESIDING OFFICER

I.D. No. 45/2001

Ref. No. L-40012/507/2000/IR(DU) Dated : 1-2-2001

BETWEEN

Sh. Raju Verma S/o Sh. Harish Chandra Verma,

Vill. & Post Kauria, Azamgarh (UP) 276001

AND

The General Manager, Telecom Department,

Varanasi East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/507/2000/IR (DU) dated 1.2.2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (I) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Raju Verma

S/o Sh. Harish Chandra Verma, Vill. & Post Kauria, Azamgarh (UP) 276001 and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under :

"WHETHER THE ACTION OF THE MANAGEMENT OF TELECOM DEPTT. IN TERMINATING THE SERVICES OF SH. RAJU VERMA w.e.f. 1-6-99 IS JUSTIFIED? IF NOT, TO WHAT RELIEF THE WORKMAN IS ENTITLED?"

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-6-98 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s. Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of Section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager. Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to District Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s. Security and Protection Services, Varanasi and the General Manager (East), Varanasi, on 10.9.96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s. Security agency is a broker or the agent of the Telecommunication Department. Master and servant relationship is denied and further the application of Section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the

country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s. Security and Protection Services at the terms and conditions mutually agreed upon M/s. Security and Protection Services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having Registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10.9.96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the Telecom Department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under Section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24.4.96 and the agreement dated 10.9.96. A copy of letter dated 28.8.2000 is also filed to show extension of the agreement dated 10.9.96 upto 9.9.97 which was further upto 31.10.97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4.5.99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department, against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The Central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-1 Jawahar Lal admitted working of the workman with the Telecommunication Department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that

arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10.9.96 which expired on 31.10.97 on expiry of extension period. The working period from 1.11.97 till 31.5.99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of Section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others Vs Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs Suresh and Others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1.6.1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW

3.2.2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 828.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 39/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/501/2000-आई आर (डी.यू.)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 828.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/501/2000-IR (DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT

RUDRESH KUMAR,
PRESIDING OFFICER

L.D. NO. 39/2001

Ref. No: L-40012/501/2000/IR (DU) Dated: 1.2.2001

BETWEEN

Sh. Brijbhushan Yadav S/o Ramsakal,
Vill. & Post Koilari Khurd,
Azamgarh (UP) 276001

AND

The General Manager, Telecom Department, Varanasi
East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/501/2000/IR (DU) Dated: 1.2.2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between

Sh. Brijbhushan Yadav S/o Ramsakal, Vill. & Post Koilari Khurd, Azamgarh (U.P.) 276001 and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under:

“WHETHER THE ACTION OF THE MANAGEMENT OF TELECOM DEPTT. IN TERMINATING THE SERVICES OF SH. BRIJBHUSHAN YADAV w.e.f. 1.6.99 IS JUSTIFIED? IF NOT, TO WHAT RELIEF THE WORKMAN IS ENTITLED?”

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1.10.96 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1.6.1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s. Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager, Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s. Security and Protection services, Varanasi and the General Manager (East), Varanasi, on 10.9.96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1.10.96. It is denied that M/s. Security agency is a broker or the agent of the Telecommunication Department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better

and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s Security and Protection Services at the terms and conditions mutually agreed upon. M/s Security and Protection services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through it's Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of 'continued' services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were

taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others Vs Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs. Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW
3-2-2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 829.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 38/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/500/2000-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 829.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/500/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT LUCKNOW

PRESENT

RUDRESH KUMAR

Presiding Officer

I.D. No. 38/2001

Ref. No: L-40012/500/2000/IR (DU) Dated: 1-2-2001

BETWEEN

Sh. Shyam Dhari Yadav S/o Jagroop Yadav, Vill.
Hichhan Patti, PO: Pachkohra, Azamgarh (UP) 276001

AND

The General Manager, Telecom Department, Varanasi
East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/500/2000/IR (DU) Dated: 1.2.2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Shyam Dhari Yadav S/o Jagroop Yadav, Vill. Hichhan Patti, PO: Pachkohra, Azamgarh (UP) 276001 and the General Manager,

Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under:

"Whether the action of the Management of Telecom Deptt. in Terminating the services of Sh. Shyam Dhari Yadav w.e.f. 1-6-99 is justified? If not, to what relief the workman is entitled?"

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-5-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour, that M/s. Security and Protection Services, was not a registered licensee contractor; that throughout his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of Section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s. Security and Protection services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1.10.96. It is denied that M/s Security agency is a broker or the agent of the Telecommunication Department. Master and servant relationship is denied and further the application of Section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at

the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s. Security and Protection Services at the terms and conditions mutually agreed upon. M/s. Security and Protection Services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under Section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy offender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not

ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under Section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of Section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the 'agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R.K. Panda and others Vs Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs. Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW

3-2-2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 830.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध

में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 43/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/505/2000-आई आर (डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 830 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 43/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/505/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -
CUM-LABOUR COURT LUCKNOW

PRESENT

RUDRESH KUMAR : PRESIDING OFFICER

I.D. No. 43/2001

Ref. No: L-40012/505/2000/IR (DU) Dated: 1-2-2001

BETWEEN

Sh. Barkhu Yadav S/o Sh. Shiv Das,

Vill. Gobari, Post Rani Ki Sarai, Azamgarh (U.P.) 276001

AND

The General Manager, Telecom Department,

Varanasi East, Varanasi (U.P.) 221001

AWARD

By order No. L-40012/505/2000/IR (DU) Dated 1-2-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Barkhu Yadav S/o Sh. Shiv Das, Vill. Gobari, Post Rani Ki Sarai, Azamgarh (UP) 276001 and the General Manager, Telecom, Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under:

"WHETHER THE ACTION OF THE MANAGEMENT OF TELECOM DEPTT. IN TERMINATING THE SERVICES OF SH. BARKHU YADAV w.e.f. 1-6-99 IS JUSTIFIED? IF NOT, TO WHAT RELIEF THE WORKMAN IS ENTITLED?"

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1-4-97 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1-6-1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so-called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s Security and Protection Services, was not a registered licensee contractor; that through out his association, he worked under control and supervision of the telecom department and there was master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of Section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

3. The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s Security and Protection Services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s Security agency is a broker or the agent of the Telecommunication Department. Master and servant relationship is denied and further the application of section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s Security and Protection Services at the terms and conditions mutually agreed upon. M/s Security and Protection Services, Varanasi, (hereinafter to be referred as

contractor) was duly registered by the Labour, Commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S. N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment to the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than 240 days and so, the provisions of notice or retrenchment compensation as provided under Section 25-F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed, to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman

was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under Section 25-B of the Industrial Disputes Act, 1947 and the beneficial provisions of section 25-F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W. P. (Civil) No. 617 of 1986 decided on May 12, 1994 between R. K. Panda and others Vs. Steel Authority of India and others reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 Secretary, Haryana State Electricity Board Vs. Suresh and others, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void *ab-initio* and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW

3-2-2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 831.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 44/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/506/2000-आई आर (डी.यू.)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 11th February, 2003

S.O. 831.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. 44/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 11-2-2003.

[No. L-40012/506/2000-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -
CUM- LABOUR COURT, LUCKNOW

PRESENT : RUDRESH KUMAR, PRESIDING OFFICER

I.D. No. 44/2001 Ref. No. L-40012/506/2000/IR (DU)

Dated: 1-2-2001

BETWEEN

Sh. Randhir Singh S/o Sh. S.K. Singh, Vill. & Post
Aturaulia, Azamgarh (UP) 276001

AND

The General Manager, Telecom Department, Varanasi East,
Varanasi (U.P.) 221001

AWARD

By Order No. L-40012/506/2000/IR (DU) Dated: 1-2-2001, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Randhir Singh S/o Sh. S.K. Singh, Vill. & Post Aturaulia, Azamgarh (UP) 276001 and the General Manager, Telecom Department, Varanasi East, Varanasi (U.P.) 221001 for adjudication.

The reference under adjudication is as under :

"Whether the action of the Management of Telecom Deptt. in Terminating the Services of Sh. Randhir Singh w.e.f. 1-6-99 is justified? If not, to what relief the workman is entitled?"

2. In short, the case of the workman, is, that he was initially appointed as security guard with the Telecom Deptt., Varanasi (East), Varanasi w.e.f. 1.10.96 and since then was performing his duties with utmost devotion and sincerity, till his services were terminated w.e.f. 1.6.1999; that there was no genuine contract labour system in vogue with the Telecommunication Deptt. to engage security guards; that so called security agency as contractor was mere name lender and almost a broker or agent of Telecommunication Department for procuring labour; that M/s. Security and Protection Services, was not a registered licensee contractor; that throughout his association, he worked under control and supervision of the telecom department and there was

master and servant relationship; that he worked for more than 240 days in preceding twelve calendar months and prior to his termination; that his termination without notice or retrenchment compensation, is, contrary to provisions of Section 25-F of the Industrial Disputes Act, 1947 and he is entitled to reinstatement with back wages.

The employer represented through S.M.A. Raza, General Manager, Telecommunication Department, District-Azamgarh, contested the case. According to him, consequent upon upgradation of office of Telephone District Manager, Azamgarh, as General Manager, Telecommunication Department, Azamgarh is the employer and has filed statement in place of General Manager Telecom Department, Varanasi, as the case is related to district Azamgarh. On merit, the case of the department is that there was temporary need of security guards for safety of its assets, hence an agreement was signed between M/s. Security and Protection services, Varanasi and the General Manager (East), Varanasi, on 10-9-96. Under the terms of the contract, the workman was supplied by the said security services, Varanasi, to perform work of security guard and he was performing duties of security guard since 1-10-96. It is denied that M/s. Security agency is a broker or the agent of the Telecommunication department. Master and servant relationship is denied and further the application of Section 25-F of the Industrial Disputes Act, 1947. It is pleaded that to provide telecom facilities in the urban/rural and remote areas in the country, the telecom network was installed and big telephone exchanges were constructed under the new technology for providing better and quick communication facilities to the mass of the country. During the installation of new telephone lines and Exchanges, goods and equipments were used to be kept at the site proposed for telephone exchanges and other place as per requirements. The security and protection of these articles and equipments were essential hence services of security guards were needed temporarily as per requirements. The Telecommunication Department had made provisions for the same. They entered into contract with M/s. Security and Protection Services at the terms and conditions mutually agreed upon. M/s. Security and Protection Services, Varanasi, (hereinafter to be referred as contractor) was duly registered by the Labour Commissioner, having registration No. 21/378/94-95 (extended from time to time). It has agreed to supply security guards at terms and conditions as stipulated in the agreement deed dated 10-9-96 duly signed by the said security services through its Director, S.N. Singh and the Telecommunication Department, Varanasi. The agreement was for fixed term, which expired. For providing security guards, the department had agreed to make payment of the contractor and it had undertaken to monitor presence of the guard and also supervising duties. The workman was not taken as an employee of the telecom department nor had worked for more than

240 days and so, the provisions of notice or retrenchment compensation as provided under Section 25F of the Industrial Disputes Act, 1947, is not applicable.

4. Both the parties relied on oral and documentary evidence. The workman filed attendance sheets showing his regular attendance duly verified by the departmental officers. In addition, the workman has filed his affidavit to substantiate his claim. The management on the other hand, filed a copy of tender dated 24-4-96 and the agreement dated 10-9-96. A copy of letter dated 28-8-2000 is also filed to show extension of the agreement dated 10-9-96 upto 9-9-97 which was further upto 31-10-97. Likewise, some photo copies of the notes are filed to prove validity of the agreement. One letter dated 4-5-99 under the signature of S.N. Singh of the Security and Protection Services, addressed to Accounts Officer (TA), Azamgarh, has been filed which is a authority in favour of Jagdish Singh for receiving cash from Telecommunication Department against security bill for the month of July, 1997. As oral evidence, Jawahar Lal, AGM, Telecommunication Department was examined.

5. The central issue to determine, is, the status of the workman, the real character of the agreement has also to be gone into. Furthermore, the effect of continued services as security guard by the workman, even after expiry of the contract, has to be legally scrutinized.

6. MW-Jawahar Lal admitted working of the workman with the telecommunication department as labour supplied by the contractor. He admitted that his attendance were taken and verified. He further admitted that arrangement to provide security guards is still in vogue through changed contractor. In effect, he admitted that nature of duties used to be taken from the workman is perennial in nature and not ended with termination of services of the workman. The management's witness has not specifically denied working period of the workman till the date of his termination.

7. The services of the workman was initiated through the contractor by agreement dated 10-9-96 which expired on 31-10-97 on expiry of extension period. The working period from 1-11-97 till 31-5-99 is not covered under the agreement nor the management explained that the workman was provided by some other contractor. Thus, there was direct master and servant relationship between the department and the workman during above said period. The workman rendered continuous services of security guard for 570 days directly under the department. This period being more than 240 days and is covered by the definition of "continuous service" defined under Section 25B of the Industrial Disputes Act, 1947 and the beneficial provisions of Section 25F applied.

8. The verification of attendance sheets by officers of the department further proves master and servant relationship. Even during the period covered by the agreement, it was the department which allocated duties to

the workman supervised their working. A glance over the agreement shows that role of the contractor was to provide security guards and not to supervise duties. The contractor was not a licensee under the Contract Labour (Abolition and Regulation) Act, 1976 or registered under the said Act. Obviously, the contract is camouflage and the contractor a name lender. The contractor was not examined to prove that it supervised the workman. As such, the department was direct employer and not principal employer. The workman, was, thus, an employee of the department. The law laid down by the Apex Court in W.P. (Civil) No. 617 of 1986 decided on May 12, 1994 between *R.K. Panda and Others Vs. Steel Authority of India and others* reported at 1994 (69) FLR 256 and 1999 (81) FLR 1016 *Secretary, Haryana State Electricity Board Vs. Suresh and others*, are fully applied in the facts and circumstances of the case.

9. It is admitted that the workman was not given notice or paid notice pay and retrenchment compensation at the time of termination of his services, as such, the termination w.e.f. 1-6-1999 is void-ab-initio and the workman is entitled to reinstatement with full back wages. The reference is adjudicated in favour of the workman.

10. Award as above.

LUCKNOW RUDRESH KUMAR, Presiding Officer
3-2-2003

नई दिल्ली, 18 फरवरी, 2003

का. आ. 832.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जयपुर के पंचाट (संदर्भ संख्या सीजीआईटी-38/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-2-2003 को प्राप्त हुआ था।

[सं. एल-40012/533/2000-आई आर (डी यू)]
कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 18th February, 2003

S.O. 832.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-38/2001) of the Central Government Industrial Tribunal-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Deptt. and their workman, which was received by the Central Government on 18-2-2003.

[No. L-40012/533/2000-IR (DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL- CUM-LABOUR COURT, JAIPUR

Case No. CGIT 38/2001

Reference No. L-40012/533/2000IR-DU

Sh. Balu Ram

S/o Sh. Moti Ram Kumar

R/o Kumharavali Dhani,

P.O. Ganguvela,

Sri Ganganagar (Raj.)-335001 ...Applicant

Versus

1. S.D.O. (T), Telephone Department,

Sri Ganganagar (Raj.)-335001.

2. The General Manager,

Telecom District,

Sri Ganganagar (Raj.)-335001. Non-applicants

Present :

Presiding Officer:	Sh. R.C. Sharma
For the applicant:	None
For the non-applicants:	Sh. B. N. Sandhu
Date of award:	07-02-2003

AWARD

1. The Central Govt. in exercise of the powers conferred under clause D of Sub-section 1 of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) has referred this industrial dispute for adjudication to this Tribunal, which runs as under :

"Whether the action of the management of GMTD, Telecom Deptt. Sri Ganganagar in terminating the services of Sh. Balu Ram S/o Sh. Moti Ram Kumar w.e.f. 27-7-83 is legal and justified? If not, to what relief the workman is entitled?"

2. In pursuance of the reference, the workman has submitted his claim containing the facts, in brief, that against the termination order dated 27-7-83 passed by the non-applicant management he raised the dispute before the Assistant Labour Commissioner Central Govt., who submitted the failure report to the Central Govt., which declined to refer the industrial dispute to the Tribunal. Aggrieved by it, he moved a writ petition before the Rajasthan High Court at Jodhpur and the Hon'ble Court vide its order dated 19-4-2001 directed the Labour Ministry to refer his dispute before the Tribunal. The workman has averred that the non-applicant establishment employed him on 9-1-82 on the daily wages, whose service was terminated on 27-7-83 by an oral order, which is covered by Section 2(oo) of the Act. He has stated that after the termination of his service, the new workmen have been employed without

furnishing him an opportunity of the appointment. He has further stated that since 9-1-82 to 26-7-83 he had continuously worked for more than 240 days and his termination is against the provisions under Section 25F, 25G and 25H of the Act. He has, therefore, prayed that the termination order dated 27-7-83 may be set aside and he may be reinstated in the service with back wages and all other consequential benefits.

3. Antagonizing the claim, the non-applicants in their reply have pleaded that the dispute has been raised belatedly by the workman which is not maintainable and has denied that he ever worked for 240 days continuously in a calendar year. The non-applicants have stated that the workman has filed the claim after a period of 18 years and it has not been disclosed by him that who employed him, that the non-applicant establishment is not covered by the definition of the industry and that the workman himself deliberately left the job.

4. On the pleadings of both the parties, the following points for determination were framed :

(1) आया प्रार्थी ने विपक्षी संस्थान में दिनांक 9-1-82 से 27-1-82 तक दैनिक वेतन पर निरन्तर कार्य किया ?

(2) आया विपक्षी संस्थान उद्योग की परिभाषा के अंतर्गत नहीं आता ?

(3) आया प्रार्थी द्वारा विवाद देरी से उठाए जाने के कारण पोषणीय नहीं है ?

(4) आया प्रार्थी अपनी इच्छा से स्वयं कार्य छोड़कर चला गया व इस कारण प्रार्थी की सेवा समाप्ति छंटनी के तहत नहीं आती ?

(5) आया विपक्षी के द्वारा प्रार्थी की सेवा समाप्ति अधिनियम, 1947 की धारा 25एफ, जी, एच, व औद्योगिक विवाद (केन्द्रीय) नियम, 1957 के नियम 77, 78 का उल्लंघन कर की गई ?

(6) प्रार्थी क्या सहायता प्राप्त करने का अधिकारी है ?

5. The workman has filed his affidavit in support of his claim. But at the stage of the evidence of the non-applicants since 18-10-2002, the applicant and his representative abstained from appearing in the Tribunal.

6. On behalf of the non-applicants, the counter-affidavit of Sh. O. N. Seth, the officer-in-charge of the case, has been filed.

7. I have heard the Ld. representative for the non-applicants and have gone through the record.

8. The Ld. representative for the non-applicants has argued that it is not proved that the non-applicant establishment has employed the workman, who continuously worked for 240 days with the non-applicant management. He has stressed upon that this dispute has been raised after a period of about 18 years, which is not maintainable on this ground too.

9. I have given my thoughtful consideration to the submissions advanced by the Ld. representative for the non-applicants and my findings, point-wise, are as under :—

Points No. 1, 4 & 5

10. Since all these points are inter-related, they are being taken up together.

11. The workman in his cross-examination has admitted that the non-applicant management had not given him any appointment letter. He has simply stated that he was employed on daily wages on muster roll. He could not be able to prove this fact that he was employed by the non-applicant management, who worked for a continuous period of 240 days. Further, he has also admitted that by the oral order he was removed from the service. Thus, it is clear that neither his appointment order nor his termination order could be produced on the record to prove his version that he was employed by the non-applicant establishment and even the concerned record from the non-applicant management has not been called for on behalf of the workman. It is also surprising that the workman has disclosed his age in the affidavit as 31 years, which is filed on 16-7-2002 before the Tribunal and according to this calculation, he appears to be of about 11 years in the year 1982 in which year it is alleged that he was employed by the non-applicant establishment. Hence, his version cannot be relied upon and looking to his underage at that time, he was not even eligible for the appointment to the service.

12. On the other hand, the version of Sh. O. N. Seth deposed in his counter-affidavit whereby he has corroborated the facts contained in the reply of the non-applicants, stands un rebutted.

13. Thus, the workman could not be able to prove that he was employed by the non-applicant establishment who worked continuously for 240 days and that termination of his service was against the provisions of Section 25-F, 25-G and 25-H of the Act. Accordingly, all these points are decided against the workman.

Point No. 2

14. The Ld. representative for the non-applicants does not press this point.

Point No. 3

15. Besides the feeble testimony of the workman, the dispute has been referred after the lapse of about 18 years and no reasonable explanation could be furnished on behalf of the workman. Hence, the claim of the workman, being belated one, also fails on this ground and does not deserve to be granted, especially when no reasonable explanation of the delay has been rendered by him. Therefore, this point is also decided against the applicant.

Point No. 6

16. On the basis of foregoing reasons, the workman has not been able to establish his claim and, therefore, his claim must fail. Accordingly, the reference is answered in

negative and an award is passed in the terms that the workman is not entitled to get the claim prayed for.

17. Let a copy of the award be sent to the Central Government under Section 17 (1) of the Industrial Disputes Act, 1947 for publication.

R. C. SHARMA, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 833.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मार्मगाव पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई नं. II के पंचाट (संदर्भ संख्या-2/36/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-2-2003 को प्राप्त हुआ था।

[सं. एल-36012/1/2001-आई आर (विविध)]
सी. गंगाधरण, अवर सचिव

New Delhi, the 11th February, 2003

S.O. 833.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/36/2001) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mormugao Port Trust and their workman, which was received by the Central Government on 10-2-2003.

[No. L-36012/1/2001-IR (M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II MUMBAI**

PRESENT

S. N. SAUNDANKAR

PRESIDING OFFICER

REFERENCE No. CGIT-2/36 of 2001

**EMPLOYERS IN RELATION TO THE MANAGEMENT
OF MORMUGAO PORT TRUST**

Mormugao Port Trust

The Chairman Mormugao Harbour

Goa-403 803

AND THEIR WORKMEN

Sh. Raju Rajmane,

'Notre Chalet'

205, Defence Colony-II,

Alot-Porvorim, Bardez, Goa

Goa-403 521

APPEARANCES :

FOR THE EMPLOYER : Mr. M.B. Anchan,
Advocate.

FOR THE WORKMAN : Mr. Suhas Naik,
Advocate.

CAMP: GOA Dated, 9th January 2003

A W A R D

1. The Government of India Ministry of Labour by its Order No. L-36012/1/2001/IR (M) dtd. 28/03/2001 in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Mormugao Port Trust, Goa in dismissing Sh. Raju Rajmane, Clerk of Marine Department from the services w.e.f. 20/5/2000 is legal and justified? If not, to what relief the workman is entitled for?"

2. Workman Shri Rajmane was engaged by the management Mormugao Port Trust as clerk on 5/8/98. By Statement of Claim (Exhibit-14) workman averred that though he was diligent and punctual in the service management issued him chargesheet dtd. 14/10/99 alleging disobedience of lawful orders and insubordination amounting to misconduct on his part which he replied on 30/10/99. It is contended that the inquiry was conducted by the inquiry officer in gross violation of Principles of Natural Justice in as-much-as, he was not allowed to be represented by representative of his choice nor he was allowed to examine witnesses and that inquiry officer not allowed him to rely on any documents. It is pleaded that the inquiry officer without application of mind at the behest of the management, mechanically recorded findings holding him guilty which are perverse and that based on the report management dismissed him from the services on 20-5-2000 illegally. It is contended workman had appealed the dismissal order before the Appellate Authority on 13-6-2000 who in turn modified it and

imposed the punishment of withholding of two increments without cumulative effect by the order dtd. 30-9-2000. It is averred by the workman that he was willing to report but the employer refused to join him and therefore he had approached the ALC(C) however Conciliation failed. It is contended by the workman that the order of dismissal of employer dtd. 20/5/2000 and subsequent order dtd. 30-9-2000 in respect of withholding of increment is illegal and unjustified and therefore the management be directed to reinstate him with full back wages.

3. Management MPT resisted the claim of workman by filing written Statement (Exhibit-19) contending that the inquiry officer giving sufficient opportunity recorded the findings on the basis of evidence and the record before him. Therefore the inquiry being in consonance with the Principles of Natural Justice does not vitiate. It is averred that the workman showing utter disregard refused to type letter in Hindi language amounting to insubordination thereby, committed misconduct and therefore he was issued chargesheet and that inquiry officer found the charges proved and based on the report, the Disciplinary Authority dismissed him from the service however in Appeal, on humanitarian grounds the punishment was reduced to withholding of two increments by the Appellate Authority vide order dtd. 30/9/2000 consequently management contended that the inquiry being proper cannot be set aside, and that workman's claim being devoid of substance be dismissed with costs in-limine.

4. This Tribunal framed issues (Exhibit-20). Since issue No. 1 is on law point no evidence is led by the parties as seen from the Rojnama. On hearing both the counsels and perusing the record as a whole I record my findings on the following issues for the reasons mentioned below—

Issues	Findings
1. Whether the reference is maintainable being not espoused by the union?	Not maintainable.
2. Whether the domestic inquiry conducted against the workman was as per the Principles of Natural Justice?	Does not survive.
3. Whether the findings of the inquiry officer are perverse?	Does not survive.

REASONS

5. At the outset the Learned Counsel for the management MPT Mr. Anchan urged with force that since

the Appellate Authority i.e. the Chairman of the MPT modified the order of dismissal of workman Rajmane and imposed penalty of withholding of two increments without cumulative effect vide order dtd. 30-9-2000 which was brought to the notice of ALC(C) which remains for the adjudication by this Tribunal and not the order of dismissal passed by the Disciplinary Authority since it merges in the order of appeal. He submits with force that the workman himself has filed the Statement of Claim alleging the order of punishment withholding of two increments without cumulative effect which infact should have been espoused by the union calling industrial dispute under Section 2(k) of the Industrial Disputes Act. However the union has not come in the picture. Consequently reference in the present form is not maintainable. He submits that in case of discharge/dismissal/retrenchment/termination amending provisions of Section 2A of the Act are applicable wherein the workman himself agitate his cause. Mr. Anchan relied on the decisions in Central Provinces Transport Services Ltd. V/s. Raghunath Gopal Patwardhan, 1957 I LL J(SC) pg. 27 and Ram Prasad Vishwakarma Vs. Industrial Tribunal, Patna & Ors., 1961 I LL J (SC) pg. 504. On the other hand, the Learned Counsel Mr. Naik submitted that the order passed by the Disciplinary Authority was of dismissal which can very well be agitated by the workman individually under amending Section 2A and that the schedule received from the Ministry of Labour is to the effect of dismissal and therefore the reference is maintainable.

6. Section 2(k) of the Act states as under :

“(k) “industrial dispute” means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person.”

In Central Provinces Transport Services case Their Lordships observed :

“The preponderance of judicial opinion is clearly in favour of the last of the three views stated above, and there is considerable reason behind it. Notwithstanding that the language of S. 2(k) is wide enough to cover a dispute between an employer and a single employee, the scheme of the Industrial Disputes Act does appear to contemplate that the machinery provided therein should be set in motion to settle only disputes which involve the rights of workmen as a class and that a dispute touching the individual rights of a workman was not intended to

be the subject of an adjudication under the Act, when the same had not been taken up by the union or a number of workmen. If that were the correct position the respondent was not entitled to apply under S.16(2) of the Act as the workmen in the industry had not adopted his dispute as their own and chosen to treat it as their *casus belli* with the company. But then we, are directly concerned in this appeal not with the Industrial Disputes Act XIV of 1947 but with the Central Provinces and Berar Industrial Disputes Settlement Act XXIII of 1947, and in the view which we take of the rights of the respondent under that statute, there is no need to express a final opinion on the question whether a dispute *simpliciter* between an employer and a workman would be an industrial dispute within S. 2(k) of Act.”

Further their Lordships of the Apex Court in Ram Prasad Vishwakarma's case observed :

“The necessary corollary to this is that the individual workman is at no stage a party to the industrial dispute independently of the union. The Union or those workmen who have by their sponsoring turned the individual dispute into an industrial dispute, can therefor claim to have a say in the conduct of the proceedings before the tribunal. It is not unreasonable to think that S. 36 of the Industrial Disputes Act recognises this position, by providing that the workman who is a party to a dispute shall be entitled to be represented by an officer of a registered trade union of which he is a member. While it will be unwise and indeed impossible to try to lay down a general rule in the matter, the ordinary rule should, in our opinion, be that such representation by an officer of the trade union should continue throughout the proceedings in the absence of exceptional circumstances which may justify the tribunal to permit other representation of the workman concerned. We are not satisfied that in the present case there were any such exceptional circumstances. It has been suggested that the union's Secretary, Fateh Singh, himself had made complaints against the appellant which resulted in the order of dismissal. It has to be observed, however, that inspite of everything the union did take up this appellants case against his dismissal as its own. At that time also, Fateh Singh was the Secretary of the Union. If the union had not taken up his cause, there would not have been any reference. In view of all the circumstances we are of the opinion that it cannot be said that the tribunal committed any error in refusing the appellant's prayer

for representation through representatives of his own choice in preference to Fateh Singh, the Secretary of the union."

7. In the case in hand the cause of withholding of increment has not been espoused by the union. In view of the observations as above, it is apparent that the matter to fall under Section 2(k) cause, is required to be espoused by the union which highlights under Section 2(k) of the Act. Consequently reference can safely said to be not maintainable as the cause not espoused by the union. Issue No. 1 is therefore answered accordingly.

8. As stated above since reference not maintainable, the remaining issues do not survive, consequently reference will have to be disposed of and hence the order :—

ORDER

Reference stands disposed of as not maintainable under Section 2(k) of the Industrial Disputes Act since not espoused by the union.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 834.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद नं. 1 के पंचाट (संदर्भ संख्या 267/2001) को प्रकृति करती है, जो केन्द्रीय सरकार को 10-2-2003 को प्राप्त हुआ था।

[सं. एल-12012/158/2001-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 11th February, 2003

S.O. 834.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 267/2001) of the Central Government Industrial Tribunal No. 1 Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 10-2-2003.

[No. L-12012/158/2001-IR (B-II)]

C. GANGADHARAN, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. I AT DHANBAD

In the matter of a reference under sec. 10(1)(d) of the
Industrial Disputes Act, 1947

Reference No. 267 of 2001

Parties : Employers in relation to the management of
Punjab National Bank

AND

Their Workman

Present : Shri S.H. Kazmi,
Presiding Officer

Appearances :

For the Employers : Shri B.K. Jha, Manager (HRD)

For the Workman : Sh. B.K. Mishra,
Authorised representative.

State : Bihar Industry : Banking

Dated, the 3rd February, 2003

AWARD

By order No. L-12012/158/2001-IR (B-II) Dated 28-11-2001, the Central Government in the Ministry of Labour, has in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether Shri Mahendra Pratap Yadav has worked for 240 days or more with the management of Punjab National Bank, if so whether the action of the management of Punjab National Bank in terminating his service w.e.f. 4-10-1990 is justified? If not, what relief the workman is entitled to?"

2. One petition containing the terms of settlement has been filed today by both the representatives duly signed by them, which bears the signature of the concerned workman also. While pressing the said petition jointly it has been submitted that both the sides have already settled the dispute amicably outside the court and they are ready to abide by the terms and conditions of the settlement. It has been jointly submitted that as the dispute has already been settled this reference be finally disposed of in terms of the said settlement and necessary award in that regard be passed.

In view of the aforesaid submissions being made on behalf of both the sides as also taking into account the development which has taken place in the mean time, nothing is left to be adjudicated and as the settlement appears to be fair and proper simply this reference is required to be finally disposed of in terms of the said settlement.

This reference, as such, stands disposed of in terms of the said settlement which would form part of the award.

S.H. KAZMI, Presiding Officer

**BEFORE HON'BLE PRESIDING OFFICER, CENTRAL
GOVERNMENT TRIBUNAL NO. 1, DHANBAD**

In the matter of ID No. 267 of 2001

Between

Mahendra Pratap Yadav

AND

Punjab National National Bank through regional Office,
Ara.

Joint application on behalf of both the parties.

Most respectfully, we pray for passing an award in the
aforesaid pending dispute on the following terms :—

- (1) That Shri M.P. Yadav would be appointed as PTS in 1/3rd of the scale wage at BO : Dhanarua.
- (2) That this appointment of Shri Yadav in 1/3rd of the pay scale at BO : Dhanarua will be in full and final settlement of his all claims monetary or otherwise arising out of the aforesaid dispute pending before the Tribunal; and
- (3) That this would not be taken as a precedent.

Prayed accordingly

Mahendra Pratap Yadav B.K. Mishra
General Secretary
PNB Employees Union (Bihar)
For and on behalf of Punjab
National Bank

Authorised Representation 3-2-2003

नई दिल्ली, 11 फरवरी, 2003

का. आ. 835.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडीकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई नं II के पंचाट (संदर्भ संख्या 2/54/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-2-2003 को प्राप्त हुआ था।

[सं. एल-12011/10/2001-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 11th February, 2003

S.O. 835.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/54/2001) of the Central Government Industrial Tribunal No. II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 10-2-2003.

[No. L-12011/10/2001-IR (B-II)]

C. GANGADHARAN, Under Secy

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL No. 2.**

MUMBAI

PRESENT

S. N. SAUNDANKAR, Presiding Officer

REFERENCE CGIT-2/54 OF 2001

**EMPLOYERS IN RELATION TO THE MANAGEMENT
OF SYNDICATE BANK**

The Deputy General Manager Syndicate Bank, Zonal
Office, Maker Tower No. E, 2nd floor, Plot No. 85, Cuffe
Parade, Colaba, Mumbai-400 005.

AND

THEIR WORKMEN

The Secretary

Syndicate Bank Employees' Union,

Ground floor, 10, Homji Street, Mumbai 400 023.

APPEARANCES :

FOR THE EMPLOYER : Mr. R.N. Shah, Advocate

for the workmen : Mr. Jaiprakash Sawant
Advocate

Mumbai, dated 22nd November, 2002

AWARD PART-I

The Government of India Ministry of Labour by its Order No. L-12011/10/2001-IR(B-II) dated 27/4/2001 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication :—

Whether the action of the management of Syndicate Bank, Mumbai by dismissing Shri H.K. Sakpal from the services of the Bank is just and proper? If not, what relief the workman is entitled to?

2. Workman Sakpal was engaged in the Bank as Attender in the year 1980. By Claim Statement Exhibit-5 workman contended that while working at Homji Street Branch Mumbai, he had obtained housing loan from the Bank which he repaid with interest at higher rate. It is averred that workman sold the house for which loan was sought to meet out the expenses of medical treatment of his ailing wife and educational expenses of his children. It is contended that the management Bank held enquiry against him of the chargesheet dt. 25-8-95 for sale of the house for which loan was sought, without the permission of the Bank which was infact minor misconduct. However, the Inquiry Officer held it gross misconduct under the

Bipartite Settlement and based on the report, he was dismissed from the services w.e.f. 6-10-98. It is averred the punishment imposed was disproportionate with the gravity of charge. Consequently it is contended management acted illegally.

3. Management Bank resisted the claim of workman by filing Written Statement Exhibit-6 contending that workman while working at Crawford Market Branch was issued chargesheet dated 25-8-95 for gross misconduct of doing acts prejudicial to the interest of the Bank. It is averred, workman while working at Homji Street branch availed housing loan of Rs. 58,500 under Employees Housing Loan Scheme on 20-3-86. However, when the officer of the Bank visited the house mortgaged to the Bank on 25-7-94 found that house was of one L.D. Rane and on enquiry it was revealed that workman had sold the house to said Rane for Rs. 1,22,000 without the permission of the Bank and thereby misused the housing loan facility. It is contended departmental enquiry was held against the said misconduct and the Inquiry Officer giving sufficient opportunity recorded the findings holding him guilty and based on the report dated 25-11-97, workman was dismissed from service from 6-10-98. Consequently, it is contended the claim of workman being devoid of substance be dismissed.

4. By the rejoinder (Ex-7) workman reiterated the recitals in the claim statement denying the averments in the written statement. It is averred that workman had not gained any pecuniary benefit and had not acted prejudicial to the interests of the Bank.

5. On the basis of the pleadings issues were framed at Ex-8. In so far as preliminary issues workman filed affidavit in lieu of Examination-in-Chief (Ex-10) and closed evidence vide purshis (Ex-11), Management however, did not lead oral evidence vide purshis Ex-12.

6. Workman filed written submissions (Ex-14) with copies of rulings (Ex-14/A) and management Exhibit-16. On perusing the record, written submission and hearing both the Advocates, I record my findings on the following, preliminary issues for the reasons mentioned below :

Issues	Findings
(1) Whether the domestic inquiry conducted against the workman was as per the principles of natural justice ?	Yes
(2) Whether the findings of the Inquiry Officer are perverse?	No

REASONS

7. At the threshold it is to be noted that at this stage we have to decide whether the enquiry was fair and proper and whether the findings are perverse and not to adjudicate whether the action is justified and

whether punishment imposed is harsh or disproportionate. According to the workman as averred in Claim Statement para 5 and sworn testimony enquiry conducted against him was against the principles of natural justice and the findings of the Inquiry Officer are perverse, however, he has not pointed out nor explained to that effect. So far domestic enquiry is concerned, Their Lordships of the Apex Court in *Sur Enamel and Stamping Works V/s. Their workmen 1963 II LLJ SCC pg. 367* ruled that enquiry cannot be said to have been properly held unless:

- (1) the employee proceeded against has been informed clearly of the charges levelled against him
- (2) the witnesses are examined ordinarily in the presence of the employee in respect of the charges.
- (3) the employee is given a fair opportunity to cross examine witnesses.
- (4) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter, and
- (5) the Inquiry Officer records his findings with reasons for the same in his report.

8. Management filed enquiry proceedings with list Exhibit-9. Chargesheet issued against the workman dated 25-8-95 is clear and in detail. Enquiry was conducted during 15-7-96—1-8-97 and that enquiry report is dated 25-11-97. It is not that enquiry was done with haste. Workman admits that he had participated in the enquiry, one Mahale was defence representative of his choice who was representative of Union and that he had cross-examined the management witnesses. He further admits that he was given opportunity to examine himself and his witnesses and so far proceeding is concerned, according to workman whatever transpired was recorded in the proceedings. Workman speaks cryptic that enquiry is not proper however he has not placed anything to that effect on record. On going through the enquiry proceedings and the report dated 25-11-97 clearly fulfil the tests laid down in the above referred decision.

9. So far the findings, of the Inquiry Officer are concerned, it is seen documents and evidence on record was considered by the Inquiry Officer. workman in his cross-examination para 1 clearly pointed out that the report is based on documents and evidence. On going through the record, it is apparent enquiry was conducted as per the principles of natural justice and that findings are not perverse. Issues are therefore, answered accordingly and hence the order :

ORDER

The domestic enquiry conducted against the workman Mr. H.K. Sakpal was as per the Principles of Natural Justice and the findings of the Inquiry Officer are not perverse.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 11 फरवरी, 2003

का. आ. 836.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इण्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 24/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-02-2003 को प्राप्त हुआ था।

[सं. एल-12012/214/95-आई. आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 11th February, 2003

S.O. 836.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2002) of the Central Government Industrial Tribunal, Cum-Labour Court Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 10-02-2003.

[No. L-12012/214/95-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Wednesday, the 11th December, 2002

PRESENT : K. KARTHIKEYAN,

Presiding Officer

INDUSTRIAL DISPUTE NO. 24/2002

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947)], between the workman Sri A. N. Naveen Kumar and the Management of Union Bank of India)

BETWEEN:

Sri A. N. Naveen Kumar : I Party/workman
AND

The Zonal Manager, : II Party/Management
Union Bank of India
Madras.

APPEARANCE:

For the Workman : Mr. A. Mani & B. Jagadeesan,
Advocates

For the Management : M/s T. S. Gopalan & Co.
Advocates

The Government of India Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-12012/214/95/IR(B-II) dated 23-06-97.

This reference has been made earlier to CGIT-cum Labour Court, Bangalore, where the same was taken as C.R. No. 177/97 and when the matter was pending enquiry in that Tribunal, the Government of India, Ministry of Labour was pleased to order transfer of this case from the file of CGIT-cum-Labour Court, Bangalore to Tamil Nadu State Industrial Tribunal, Chennai, where the same was taken on file as I.D. No. 113/97 and was disposed of by an ex-parte award dated 10-9-99. When the petitions T. No. 120 & 121/2000 in I.D. No. 113/97 was pending in that Tribunal, Government of India, Ministry of Labour was pleased to order transfer of these petitions also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, the unnumbered petition has been taken on file as U.N. No. 01/2001 (Tapal No. 120 & 121/2000 in I.D. No. 113/97) and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 19-03-2001 with their respective parties and to prosecute this case further. When the petitions were pending disposal before this Tribunal, W.P. No. 20544 of 2000 filed by the II Party/Management in the High Court of Madras challenging exparte award passed by Tamil Nadu State Industrial Tribunal in I.D. No. 113/97 was allowed by the High Court of Madras by an order dated 28-2-2002. In pursuance of Writ Petition allowed by the High Court of Madras by setting aside the exparte order passed by Tamil Nadu State Industrial Tribunal in I.D. No. 113/97, with a direction to restore the dispute on file to dispose it on merits, the case has been taken on file by this Tribunal and renumbered as I.D. No. 24/2002 for disposal on merits. The parties to this dispute have prosecuted this case before this Tribunal afresh.

Upon perusing the Claim Statement, Counter Statement, documentary evidence let in on the side of the I Party/Workman alone, the other material papers on record, after hearing the arguments advanced by the learned counsel for the II Party/Management alone and this matter having stood over till this date for consideration, this Tribunal has passed, on merits, the following:—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows:—

“Whether the management of Union Bank of India, Zonal Office, Madras is justified in awarding punishment of dismissal in respect of

Sri A. N. Naveen Kumar, Cashier-cum-Clerk? If not, to what relief Sri A. N. Naveen Kumar is entitled and what directions are necessary in this matter?"

2. The averments in the Claim Statement filed by the I Party/Workman Sri A. N. Naveen Kumar (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner had joined the service of the II Party/Management Union Bank of India, Chennai (hereinafter refers to as Respondent) in the year 1971 as Sub-staff. He was promoted as Clerk-cum-Cashier in the year 1981. His service throughout was unblemished. He was dismissed from service on and from 20-11-93 for alleged misconduct mentioned in the chargesheet dated 20-1-1993. The Petitioner preferred an appeal to Appellate Authority who confirmed the dismissal order passed on 20-11-93. In the year 1992, when the Petitioner was working in Madras Main Branch was transferred to washermenpet branch based on some allegations. He was issued supplementary charge-sheet dated 21-4-93 containing two charges. The Petitioner had submitted his detailed explanation for the charge memo. The Enquiry Officer is not at all the Disciplinary Authority-cum-punishing authority. The Enquiry Officer has no power, authority and jurisdiction to pass order of dismissal or to impose any punishment. Hence, in the eye of law there is no order of dismissal passed against the Petitioner. The same is illegal, unjust and void ab initio besides against the terms of Bipartite Settlement governing the service conditions of the Award staff like the Petitioner. No charge against the Petitioner is established beyond reasonable doubt and the benefit of doubt should go in favour of the Petitioner. Even the charges were not established in all preponderance of probabilities, therefore, the Petitioner should not be dismissed from service of the Respondent. The Enquiry Officer had prepared his findings prior to the Petitioner submitting his written defence brief in the enquiry. The findings of the Enquiry Officer are perverse and not based on legal evidence available on record. The Enquiry Officer had not taken into account and referred to substantial documentary evidence in favour of the Petitioner. The unblemished record of 22 years service of Petitioner had not been taken into consideration, while imposing the capital punishment against him. Though the shortage was occurred only at payment cashier's counter, he was punished for the shortage and in fact, the payment cashier had admitted the shortage at his counter and remitted the amount which was found as shortage. The payment cashier was left free, on the other hand, the Petitioner was punished for his fault based on his false fabricated complaints. The belated complaint lodged against the Petitioner by the then payment cashier had been withdrawn. The Respondent had proceeded with withdrawn complaint and the Petitioner was made scapegoat for the misconduct. The Petitioner is not a habitual borrower. It has not been established in the enquiry. He was not having any financial or business transaction with any of the

customers of the Respondent. The Petitioner could not be blamed for his borrowing if any, from the professional moneylender for meeting his urgent family needs. The Petitioner and his wife were earning members of the family. Hence, it is prayed that this Hon'ble Tribunal may be pleased to hold that the non-employment of the Petitioner by the Respondent is not justified and consequently direct the Respondent/Management to reinstate the Petitioner in service with back wages, continuity of service with all attendant benefits.

3. The averments in the Counter Statement filed by the II Party/Management Union Bank of India, Chennai (hereinafter refers to as Respondent) are briefly as follows:—

The Respondent is a nationalised bank having branches throughout of India including some branches in Chennai in the branches whenever the cash is to be handled by any employee whether for receipt, payment deposit, verification, etc. the employee handling the cash should mention the number of each denomination as it would provide an alternate proof to vouch for receipt, payment, verification, deposit, etc. etc. In bigger branches, there may be more than one cashier in which event, the Senior Cashier will take the roll of payment cashier and the other cashier will be the receipt cashier. At the end of day's transaction, the receipt cashier will have to hand over the cash to the Senior Cashier (Payment Cashier) giving details of the cash handed over i.e. number of each denomination and the total amount. The receipt cashier should also note the denomination of the cash received in the challan. The receipt cashier will maintain cashier's receipt book and similarly the Payment Cashier will maintain a Payment Register. While making entries in the cashier's receipt book or payment register the denomination of the amount received or paid ought to be noted. When the Petitioner was working as receiving cashier in the Madras Main branch on 28-9-92 one Mr. S. Anand, the representative of M/s. Padmaja Trading Corporation had remitted a sum of Rs. 3.00 lakhs as per the pay-in-slip dated 27-9-92 into Current Account No. 26097 and the Petitioner had entered the remittance particulars for Rs. 3.00 lakhs in the following denominations as per pay-in-slip :—

2300 × Rs.100	:	Rs. 230000
1400 × Rs.50	:	Rs. 70000
		Rs. 300000

The remittance was shown as last receipt No.77 in the receiving cashier's register. The payment slip was signed by the Petitioner and the voucher was signed by an officer in the current account department. At about 4.00 pm the Petitioner informed the bank officials that the party had remitted only Rs. 2,90,000/- and not Rs. 3,00,000/- As mentioned in the pay-in-slip. It would appear that earlier in that day, the Petitioner informed the party that there was a

cash shortage of Rs. 500/- and when the party was contacted Mr. Anand maintained that he had remitted the cash of Rs. 3,00,000/- and gave a letter to that effect. On that day, the shortage was closed by debiting the suspense account "shortage of cash" after obtaining the signature of the Petitioner on the reverse of the cash voucher. In the pay-in-slip, the Petitioner had made a tick mark against the denomination particulars and thereby he had confirmed the receipt of number of bundles as marked in the pay-in-slip. The denomination particulars mentioned in the pay-in-slip tallied with the denominations mentioned by the party in his letter as well as with the particulars mentioned in the receiving cashier's book. Thus, the Petitioner was responsible for the shortage of Rs. 10,000/-. On 25-11-1992, a show cause notice was issued to the Petitioner making a reference to the said shortage and calling upon him to give his explanation as to why the disciplinary action shall not be taken against him. On 7-12-92 the Petitioner gave a reply denying the charges. On 24-12-92 one customer Sri Siddique Ali had withdrawn Rs. 1,50,000/- in the Madras Main branch. When the party remitted the amount in State Bank of India, it was found that there was a shortage in one of the hundred rupees bundle which was initialled by the Petitioner as a cashier and one Mr. Parthasarathy as officer-in-charge of the department. As the party had brought the bundle in tact without being tampered the branch was obliged to pay Rs. 1000/- to the party. Out of Rs. 1000/- paid to the party Rs. 500/- was recovered from Parthasarathy and the balance of Rs. 500/- had to be recovered from the Petitioner. In January, 1992 the Petitioner was transferred from Madras Main Branch to Washermenpet branch when he was working in Washermenpet branch in January, 1993, the Petitioner had issued a cheque for Rs. 23,000/- to one of the creditors by name Mrs. Jeenadas and when it was presented on 12-1-1993 it was returned for want of funds. It would also appear that the Petitioner promised to repay the loan to Jeenadas on 20-1-1993. On 20-1-1993 at the time of closing a cash shortage of Rs. 15,000/- was found at the Washermenpet branch. On that day, the Petitioner acted as a receiving cashier and he had received 22 pieces of Rs. 500/- denomination, but while handing over the cash to Payment Cashier Sri Sridhar Babu, the denomination particulars shown only one piece of Rs. 500/-. Despite verification of receipts and payment registers cash bundles and contacts with parties to whom payments were made, the shortage could not be located. In order to close that day's cash a voucher under the style of "suspense account—shortage of cash" was prepared and debited to tally that day's book. On the next day, i.e. 21-1-93 as all the attempts to locate the shortage pay Mr. Sridhar Babu the Main Cashier (Payment Cashier) deposited the cash of Rs. 15,000/- by pledging his wife's jewellery/ornaments. On 28-1-93 the Branch Manager convened a staff meeting when Sridhar Babu brought to the notice of all those present including the Petitioner that the Petitioner had made a payment of Rs. 15,000/- to one of his creditors namely

Jeenadas in the premises of Madras Main Branch on the very same day of cash shortage on 20-1-93 at Washermenpet branch. The Petitioner replied that the payment of Rs. 15,000/- to Jeenadas was made by encashing the draft through Indian Bank Mint Street Branch which was drawn on syndicate bank and the draft was brought by his wife from her native place in Mysore. The Petitioner also stated that he had exchanged Rs. 500/- denomination pieces received by him through the day's transaction with one customer, whose name was not able to recollect by him. It also transpires that on 20-1-93 the Petitioner had not only paid Rs. 15,000/- in cash to Jeenadas, but had also gave him a cheque for balance of Rs. 8,000/-. After the staff meeting on 28-1-93 the Petitioner unauthorisedly remained absent from 29-1-93 and his whereabouts were not known to his family members. When his wife came to the branch to know about his whereabouts, she was asked whether she had gone to her native place and brought any demand draft, to which she replied that she had not gone to her native place nor she brought any demand draft. Thus, it became clear that the Petitioner has misappropriated a sum of Rs. 15,000/- on 20-1-93 to repay his loan liability to Jeenadas. Arising out of these two transactions, a supplementary charge sheet dated 21-4-93 was issued to the Petitioner. With regard to the charges levelled against him by two charge sheets dated 25-11-92 and 21-4-93, the Petitioner was asked to appear for an enquiry. In the enquiry, 8 witnesses were examined to support the charges on the Petitioner side two exhibits were marked. On consideration of the materials placed before him, the Enquiry Officer gave his report on 30-8-93 holding that the charges against the Petitioner were proved. As the Enquiry Officer was also the Disciplinary Authority proposed punishment of dismissal and directed the Petitioner to appear for personal hearing, which took place on 3-11-93. After consideration his representation, orders were passed on 20-11-93 dismissing the Petitioner from service. The said dismissal is valid in law and also fully justified. The Petitioner has not made out any case warranting interference with the said order of dismissal. Sri D. Ranganathan as a notified Disciplinary Authority and the Disciplinary Authority was entitled to hold the enquiry and also to pass an order of dismissal. Though the Disciplinary Authority was also entitled to issue the charge sheet in the instant case, the officer who issued the charge sheet did not hold the enquiry. The Petitioner did not submit his written brief before the stipulated time and therefore, the Enquiry Officer started preparing the findings. However, as he had received the written brief before the completion of enquiry proceedings incorporation the pages 27A and 27B dealing with the points raised by the Petitioner. It cannot be said that the Enquiry Officer did not consider his written brief. In any event, having failed to submit the written brief within the time allowed, it is not open to the Petitioner to challenge the findings on the alleged ground that his written reference was not considered before findings him guilty of the

charges. The findings of the Enquiry Officer are supported by adequate evidence and the reasoning is also sound. Hence it should not be interfered with. Further the said findings are justified by evidence on record and should be upheld. The charges proved against the Petitioner reflected on his integrity and honesty and naturally he cannot be retained in employment. Viewed in that sense, the punishment of dismissal cannot be said to be harsh or excessive. The shortage was found only in the receipts and as the Petitioner was the receipt cashier, he was answerable to the same and therefore, no blame can be made against payment cashier. Another witness deposed about the Petitioner's habit of issuing cheques without sufficient funds and that evidence was accepted by the Enquiry Officer. In the circumstances, the Petitioner should not be considered for any relief much less the relief of reinstatement. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to make an award upholding the dismissal of the Petitioner and reject the claim.

4. When the matter was taken up for enquiry, no one has been examined on either side as a witness. 11 documents filed on the side of the I Party/Workman have been marked as Ex.W1 to W11. No document has been marked as an exhibit on the side of the II Party/Management. The argument advanced by the learned counsel for the II Party/Management alone was heard.

5. The point for my consideration is —

“Whether the management of Union Bank of India, Zonal Office Madras is justified in awarding punishment of dismissal in respect of Sri A. N. Naveen Kumar, Cashier-cum-Clerk? If not, to what relief Sri A.N. Naveen Kumar is entitled and what directions are necessary in this matter?”

Point :—

This industrial dispute has been raised by the I Party/Petitioner Sri A. N. Naveen Kumar challenging the action of the II Party/bank management in dismissing him from service as an unjustified action. It is not disputed that the said decision has been taken by the II Party/Bank Management against the Petitioner who was an employee of the Respondent/Bank on the basis of the findings of the Enquiry Officer in its report he submitted in pursuance of domestic enquiry conducted against the Petitioner in respect of the alleged misconduct mentioned in the two charge sheets dated 20-1-93 and 21-4-93. It is also not disputed that prior to that a memo dated 25-11-92 was issued to the Petitioner by the Disciplinary Authority. The xerox copy of the same is Ex.W1. Ex.W2 is the xerox copy of the written explanation submitted by the Petitioner for the show cause memo under Ex.W1. Since the explanation given by the Petitioner under Ex.W2 was found by the Disciplinary Authority as neither convincing nor satisfactory and not accepted by the Respondent/Management, the disciplinary proceedings by way of

domestic enquiry was initiated. Ex.W3 is the xerox copy of the charge memo dated 20-1-93 issued to the Petitioner. Ex.W4 is the supplementary charge memo dated 21-4-93 issued to the Petitioner mentioning the different acts of misconduct alleged to have been committed by the Petitioner. Ex.W5 is the xerox copy of the enquiry notice dated 15-5-93 informing him that the Disciplinary Authority before the enquiry into the charges levelled against him on 7-6-93. Ex.W6 is the xerox copy of the proceedings of the enquiry conducted by the Enquiry Officer for the alleged misconducts of the Petitioner mentioned in the two charge memos. In Ex.W7 is the findings of the Enquiry Officer. In Ex.W7 itself, the Disciplinary Authority happens to be the Enquiry Officer has mentioned the proposed punishment to be imposed for the proved charges against the Petitioner and the Petitioner was informed that he will be given a personal hearing with regard to the proposed punishment. Ex.W8 is the xerox copy of the proceedings of the personal hearing conducted by the Disciplinary Authority dated 25-10-1993 and 3-11-1993. Ex.W9 is the Xerox copy of the final order passed by the Disciplinary Authority imposing the punishment of dismissal from service of the bank against the Petitioner. Against that order of dismissal, the Petitioner had preferred an appeal to the Appellate Authority. The xerox copy of the appeal dated 1-1-1994 is Ex.W10. The Appellate Authority after considering the representation made by the Petitioner before him in the personal hearing passed a final order dated 2-3-94 rejected the appeal by confirming the order passed by the Disciplinary Authority as a punishment imposed on the Petitioner I Party/Workman Sri A. N. Naveen Kumar. The xerox copy of the same is Ex.W11.

6. The Petitioner has not challenged the conduct of the enquiry and its validity. All the witnesses for the management were examined in the presence of the charge-sheeted employee and his defence representative. All of them were cross examined in detail by the charge-sheeted employee's defence representative and the entire proceeding had been signed by the Enquiry Officer, management representative, charge sheeted employee, defence representative and the witnesses examined on the side of the management as it is seen from the xerox copy of the disciplinary proceedings Ex. W6. The Petitioner has challenged only the findings of the Enquiry Officer and the punishment imposed by the Disciplinary Authority on the basis of the findings of the Enquiry officer.

7. It is the contention of the Petitioner in his Claim Statement that the findings of the Enquiry Officer are perverse and not based on legal evidence available on record and the Enquiry Officer has not taken into consideration the legal evidence in favour of the Petitioner in the enquiry and he has not taken into account and referred to the substantial documentary evidence in favour of the Petitioner which establish the innocence of the Petitioner. It is further contended that the punishment

imposed by the Disciplinary Authority is shockingly disproportionate to the alleged misconduct allegedly committed by the Petitioner and there was evidence to establish or to hold that the charge/misconduct levelled against the Petitioner is proved beyond reasonable doubt. In support of these contentions in Claim Statement, the Petitioner has not come forward to let in any oral or documentary evidence.

8. The first charge is that on 28-9-92 Mr. Anand, representative of Padmaja Trading Corporation who is holding current Account No.26097 has remitted an amount of Rs.3.00 lakhs as per pay-in-slip dated 27-9-92 to the Petitioner who was the receiving cashier on that day and he entered the remittance particulars of Rs.3.00 lakhs on the pay-in-slip by mentioning the denominations and he has signed the pay-in-slip and the voucher was signed by the current account department officer and that the Petitioner had made a tick mark against the denomination particulars thereby, confirming that he had received number of bundles as marked in the pay-in-slip and the denomination particulars mentioned in the pay-in-slip tallied with the denomination mentioned by the party in his letter received at the branch as well as particulars mentioned in the receiving cashier's book and hence, the Petitioner is responsible for the shortage of Rs.10,000/- to the bank. Ex.ME25 is the xerox copy of the remittance challan for Rs.3,00,000/- dated 27.9.92 in respect of the credit made to the current account No.26097 of Padmaja Trading Corporation. In that challan, it is written in words also as 'Three lakhs only'. On the back side of the challan as it is seen from the xerox copy the denomination of currency notes received as cash 2300 × 100 rupee notes Rs. 2,30,000 and 1400 × 50 rupee notes Rs. 70,000/- totalling Rs.3,00,000/- and it has been duly ticked by the Petitioner who was the receiving cashier on that day. In page No. 133 under Ex.W6 disciplinary proceedings, the xerox copy of the letter dated 27.9.92 given by one Mr. Anand of Padmaja Trading Corporation to the bank is available. In that letter, it is stated that Rs.3,00,000/- in cash with the denomination of 100 rupees note 2300 and 50 rupees note 1400 as total sum of Rs.3,00,000/- have been deposited towards their account and the cashier has told them in 100 rupee note bundle there was only 2200 was available and one hundred rupee note bundle which was there nearby was also calculated by him and informed by him that the entire amount was correct and hence, he has left the bank after half-an-hour. So from the evidence as a letter given by Anand, it is seen that he has given Rs.3,00,000/- while making payment under Ex.MEX25 challan to the Petitioner who was acted as received cashier and having checked the same and found it correct, he had made the tick mark for the denomination of the currency mentioned on the back side of the challan. Making of the tick mark for having found correct the denomination of the currency mentioned on the back side of the challan Ex. MEX25 has not been disputed by the Petitioner himself. Further, it is seen from

the enquiry proceedings that one Mr. Nabova Ganapathy, who was working as officer-in-charge of the current account department at Madras Main branch on 28th September, 1992 has been examined as MW8. He has given evidence that on 28.9.92 there was a cash shortage of Rs. 10,000/- in current account of M/s. Padmaja Trading Corporation and that on 28.9.92 as usual, the party Padmaja Trading Corporation had remitted Rs.3,00,000/- and requested to issue of TT to Vijayawada against a cheque and since the TT was urgent and the cash was remitted to Mr. Naveen Kumar, who physically verified the bundles according to section-wise and confirmed that he has received the cash and that by 3.00 p.m. when asked for credit voucher, Mr. Ravikumar told him that there is a shortage in cash and also said that he has informed the party and since the current account voucher to be typed he asked Mr. Naveen Kumar to release the voucher and he released the same as usual and that since he was the current account officer, after ascertaining the initial of Mr. Naveen Kumar in the voucher, he signed the 2nd signature and given it for credit and subsequently by 4.00 p.m. he informed that there is a shortage of Rs. 10,000/- in the remittance in the current account of Padmaja Trading Corporation and meanwhile the party came to office with Rs.500/- as the shortage informed earlier by Naveen Kumar and the party was surprised to know the shortage of Rs.10,000/- and that he also confirmed that he left the counter after Mr. Naveen Kumar confirming the denominations and sections by ticking on the challan and the shortage of Rs.10,000/- has nothing to do with the party and he gave a letter to the Manager concerned. He has also identified in the enquiry the current account voucher dated 28.9.92 with scroll No.77 for the current account No.26097 of the ledger D of the Current Account Madras Main Branch, wherein initial of Mr. Naveen Kumar was put on 28-9-92 on the cash received seal and current account officer's signature of MW8 and the depositor signature Mr. S.Anand, on the reverse of the challan the denomination of the cash remitted as 23 sections of Rs. 100 and 14 sections of Rs.50 total amounting to Rs. 3,00,000/- and ticked. He has also identified the other document debit cash voucher dated 28.9.92 No.919443 with heading 'suspense account-shortage in cash for Rs.10,000' with narration of shortage in cash handled by Mr. Naveen Kumar and signed by Mr. Naveen Kumar, the then Manager and Mr. Parthasarathy, Head Cashier and on the reverse also it was signed by Mr. Naveen Kumar. It has been marked as MEX 26 in the enquiry and he has also identified in the enquiry the confidential letter written by Chief Manager of Madras Main Branch to the Chief Manager, Personnel, Zonal Office, Madras on 5.1.93 and it has been marked as MEX27. In that letter, it has been stated that receiving cashier was negligent and has not followed the prescribed procedure. In that letter the entire incident has been narrated by the Chief Manager of Madras Main Branch. MW8 has also deposed that Mr. Naveen Kumar has

informed first as shortage of Rs.500/- at 10 pieces of Rs.50/- denomination and subsequently by 4.00 p.m. he informed that there is shortage of Rs.10,000/- in 100 denomination i.e. one section is short. A perusal of this enquiry proceedings clearly shows that MW8 has clearly given evidence with regard to this incident of shortage of Rs.10,000/- of cash when the Petitioner Mr. Naveen Kumar was working as the Receiving Cashier on 28-9-92 and the person who remitted the cash on the day on behalf of Padmaja Trading Corporation came to the bank at 4.30 p.m. after he has been informed through phone by Naveen Kumar that there is a shortage of Rs.500/- and handed over Rs.500/- to Naveen Kumar for the shortage in his presence and subsequently, he shocked to hear the shortage of Rs.10,000/- and gave a written complaint. He has further deposed that it is only due to the negligence of Naveen Kumar who worked as receiving cashier on 28-9-92, since only after confirming the cash Mr. Naveen Kumar has ticked the bundles and sections and also has stamped with his initial and released the voucher for credit. Apart from the evidence of MW8, it is seen from Ex.MEX 25 the xerox copy of the challan by which Rs.3,00,000/- has been deposited in the current account of Padmaja Trading Corporation on 27-9-92, the Petitioner has put the seal of cash scroll Number and has written therein as No. 77. If the denomination mentioned in the credit challan Ex.MEX25 found to be incorrect, the Petitioner Naveen Kumar would not have put the cash scroll and has given the number as 77. Based upon these evidence both oral and documentary, the Enquiry Officer in his report Ex.W7 has given a finding about the first charge that from the deposition of the witnesses availability of documents and circumstantial evidences, it is crystal clear that the cashier while receiving or paying the cash should thoroughly check the cash with reference to denomination written by customer on the specified forms of the bank and in this case, the denomination for the total amount of Rs.3,00,000/- written by the customer M/s. Padmaja Trading Corporation verified physically in cash by Mr. Naveen Kumar with reference to denomination noted thereon and he had ticked the cash and affixed cash receipt stamp on the pay-in-slip voucher and released the same duly signed and thereby it has ensured by Mr. Naveen Kumar the receipt of the cash mentioned therein and that establishes that Naveen Kumar must have received the cash correctly. He has further given the finding on the basis of evidence before him in the enquiry that it was further strengthened that he had not clearly spelt out the exact difference first and he has informed the party originally the difference of Rs.500/- instead of Rs.10,000/- and subsequently, informed him the difference as Rs.10,000/- belatedly. He has also given reasoning as to how the explanation given by the delinquent employee, the Petitioner herein cannot be accepted and he has also considered evidence available for the Petitioner signing the voucher for suspense account for the shortage of Rs.10,000/- and his subsequent

payment of Rs.10,000/- to wipe out the suspense account. So under such circumstances, it cannot be said that it is a perverse finding of the Enquiry Officer in respect of the first charge of misconduct as levelled against the Petitioner.

9. In the supplementary charge, it is stated that when Mr. Naveen Kumar was working as receiving cashier on 20.1.93 the cash shortage of Rs.15,000/- was found at the time of closing the cash and could not be located and the cash was closed by controlling the amount of shortage under the head of 'suspense account - shortage of cash' and Sridhar Babu deposited the cash of Rs.15,000/- by pledging his wife's jewellery and on 28-1-93 when the Branch Manager called for a staff meeting, Sridhar Babu has brought to the notice of all that Mr. Naveen Kumar has made a payment of Rs.15,000/- to one of his creditors namely Sri Jeenadas in the premises of Madras Main branch on the very same day of cash shortage of Washermenpet branch on 20-1-93 and had stated that Mr. Naveen Kumar though received 22 pieces of 500 denominations from the various customers has handed over only one piece of Rs.500/-denomination to him and Mr. Naveen Kumar replied that the payment of Rs.15,000/- to his creditor was made by encashing a draft through Indian Bank Mint Street Branch which was drawn on Syndicate Bank and the draft was brought by his wife from her native place in Mysore and he has exchanged Rs.500/- denominations received by him through the day's transactions with one customer of the bank whose name he did not recollect and that Jeenadas has revealed that Mr.Naveen Kumar has paid Rs.15,000/- as partial repayment of his total dues of Rs.23,000/- in denomination of 20 five hundred rupee currency and 100 fifty rupee currency. It is also in evidence that Naveen Kumar remained unauthorisedly absent from 29-1-93 and his whereabouts were not known even to his family members and that his wife came to the branch to ascertain his whereabouts and at that time she has informed that she has not gone to her native place and she has not brought any demand draft and thus Naveen Kumar's contention regarding demand draft transaction with Indian Bank Mint Street branch is false and thus, Mr. Naveen Kumar has misappropriated a sum of Rs.15,000/- on 20-1-93 to repay his loan liability with Mr. Jeenadas, a professional money lender, which resulted in shortage of cash at Washermenpet branch.

10. From the enquiry proceedings it is seen that MW2 Karunagaran has deposed that he was one of the signatories to meeting that was taken place on 28-1-93. Ex.MEX 3 is the xerox copy of the minutes of that meeting. MW2 Karunagaran has signed that minutes as the 5th signatory. It is his evidence that Naveen Kumar has stated that he has made payment of Rs.15,000/- to one of his creditors from the proceeds of demand draft of Syndicate Bank brought by his wife Ms. Sobha Naveen Kumar from her native place Mysore and that he has taken Sridhar Babu officiating paying cashier to the house of Hazis,

who assured that he will do justice to Sridhar Babu regarding Cash shortage and the cross examination also he has stated that Sridhar Babu has informed Hazis about his suspicion that Mr. Naveen Kumar would have misappropriated Rs. 15000/- which amount to loss while working as payment cashier on 20-1-1993. It is seen from the evidence of MW4 Suryanarayanan, Accountant Washermenpet branch that he was informed by Sridhar Babu about cash shortage of Rs. 15,000/- on 20-1-93 and in order to close the cash transaction of the day, voucher was prepared under the heading 'suspense account - cash shortage' and debited as per rules and regulations of the bank. It is also the evidence of MW4 Suryanarayanan, Accountant, that on the following day the loss of cash shortage was made good by Sridhar Babu the officiating paying cashier and that he was informed by Sridhar Babu about the suspicion he was having on Mr. Naveen Kumar. It is also the evidence of MW4 that on noticing the shortage of cash at the time of closing the account Sridhar Babu who was the payment cashier felt that it is his mistake and the cash has to be closed for the day the voucher under the heading suspense account shortage of cash for Rs. 15,000/- was prepared under his signature under Ex. MEX 12 and Sridhar Babu signed on the reverse of the voucher, since he was officiating as Head Cashier and the shortage occurred in the cash department and that subsequently on 21-1-93 the suspense account was adjusted by remittance of Rs. 15,000/- by the paying cashier Sridhar Babu under Ex. MEX 15. It is also his evidence that Naveen Kumar was the receiving cashier has signed the receipts scroll cash which has been tallied with the total of receipts of cash scroll and that Mr. Sridhar Babu felt that at the first instant he was at fault since the receiving cashier has confirmed that he has tallied his cash and that was why Sridhar Babu has signed the suspense account voucher. It is also in evidence of MW5 Zonal Vigilance Cell Manager Mr. M.N. Kutty that he visited the Washermenpet branch during February, 1993 for investigation in connection with shortage of Rs. 15,000/- on 20-1-93 and at that time Mr. Naveen Kumar was the receiving cashier. From his evidence, it is seen that in the meeting, conducted by the Deputy Manager Mr. C.P. Gopalakrishnan on 28-1-93 Sridhar Babu has informed that Naveen Kumar has received 22 pieces of 500 rupees denomination, but has given him only one piece of 500 rupee denomination during the time of closing the cash and that he learnt that Naveen Kumar has paid Rs. 15,000/- in the denomination of 20 pieces of 500 rupees and 100 pieces of 50 rupees denomination to his creditor Mr. Jeenadas at Madras Main Branch on the very same day of cash shortage of Washermenpet branch i.e. 20-1-93. But Naveen Kumar had replied that he has exchanged 20 pieces of 500 rupees denomination and 100 pieces of 100 rupees denomination to somebody but the name of the party could not be recollected and that he informed that he has paid Rs. 15000/- to Mr. Jeenadas from the proceeds of demand

draft of Syndicate Bank drawn on Indian Bank Mint Street branch and the draft was brought by his wife from Mysore and Mr. Naveen Kumar abstained from duty reportedly absconded from 21-1-93 and when Mr. Naveen Kumar came to bank on 30-1-93 to enquire the whereabouts of Naveen Kumar and when she was questioned by the Manager Mr. Gopalakrishnan she replied that she has not gone to Mysore nor brought any demand draft as stated by Naveen Kumar in the meeting held on 28.1.93. It is also the evidence of MW5 that Mr. Suryanarayanan has shown the evidence of having pledged the jewellery of wife of Sridhar Babu and remitted Rs. 15000/- on 21-1-93 to adjust the suspense account and Suryanarayanan narrated that he came to know that Mr. Naveen Kumar paid Rs. 15000/- in the denomination of Rs. 500/- and Rs. 50/- 20 pieces and 100 pieces respectively comprising Rs. 15,000/- to Jeenadas and to ascertain that fact, Mr. Sridhar Babu went to Mr. Jeenadas and came to know through him that Naveen Kumar has paid Rs. 15000/- in the same denomination on 20-1-93 at Madras Main Branch and under such circumstances, it is felt that Mr. Naveen Kumar has got hand in the shortage of Rs. 15000/-. It is also his evidence that he met Jeenadas who informed him that Naveen Kumar has borrowed Rs. 23000/- and he paid Rs. 15000/- in cash in the said denomination at the Madras Main branch premises on 20-1-93 in the presence of Hazis, Rajamani and K. Mani and he requested the Regional Manager by giving a letter to make arrangement for balance amount of Rs. 8000/- from Naveen Kumar and the said letter is Ex. MEX 21. MW5 has further deposed about this incident and his further investigation by examining the other connected persons and came to know that Mr. Naveen Kumar has handed over Rs. 15000/- on 20.1.93 to Mr. Jeenadas in the referred denomination and it is also his evidence that to verify the veracity of the information given by Naveen Kumar as source of Rs. 15,000/- he contacted Indian Bank Mint Street Branch to know the particulars of the demand draft purported to have been brought by Mrs. Naveen Kumar presented through them, the Indian Bank Mint street branch in their letter stated that they have not received any demand draft on Syndicate bank and also that there is no such account in the name of Mr. Naveen Kumar's wife and those letters are MEX 16 & 17. So from these evidences also the Enquiry Officer has concluded that there are sufficient evidence to prove the charge levelled against the Petitioner for the shortage of Rs. 15,000/- mentioned in the supplementary charge sheet Ex. W4. Like that for the other charges also there are sufficient evidence in MW3 K.T. Rajagopal, Manager, Madras Main branch in respect of the cash shortage of Rs. 1000/- on 24-12-92. From his evidence, it is seen that one customer Mr. Siddique Ali has withdrawn Rs. 1,50,000/- on 24-12-92 in the Madras Main branch and he found that there was a shortage in one of 100 rupees bundles which was initialled by the Petitioner as cashier and one Mr. Parthasarathy as officer in-charge of the department and as the party had brought

bundle in tact without being tampered the branch was obliged to pay Rs. 1000/- to the party and out of Rs.1000/- paid to party, Rs. 500/- was recovered from Parthasarathy the officer-in-charge of the department and balance has to be paid by the then cashier Mr. Naveen Kumar. MW1 in the enquiry has deposed that he has investigated regarding cash shortage of Rs. 1000/- at Madras Main Branch on 6.9.93 and during the investigation it was noticed that the shortage of cash of Rs.1000/- was due to the negligence of cashier Naveen Kumar and Mr. Parthasarathy, officer in-charge of cash department and he submitted his report MEX 5. On the basis of the evidence given on this charge, the Enquiry Officer has given a finding that the responsibility of shortages restricted to 50% of the value of the shortage amount and the payment of Rs.500/- will not count for exoneration of the chargesheeted employee though the amount was remitted, the misconduct of negligence remains unaltered. So from all these oral and documentary evidence let in by the Respondent/Management, the Enquiry Officer has come to a correct conclusion that the charge sheeted employee Naveen Kumar acted prejudicial to the interest of the bank and he was also responsible for the breach of rules of business of the bank and breach of instruction for running the department incurred debts to an extent considered by the management as excessive holding that the charges levelled against the Petitioner chargesheeted employee in both the chargesheets have been proved and established beyond doubt against Mr. Naveen Kumar in respect of gross misconduct and both the minor misconducts.

11. So, under such circumstances, it cannot be said that it is only the perverse finding of the Enquiry Officer without any evidence to prove the charges levelled against the Petitioner, chargesheeted employee. On the other hand, from the materials available in this case, in the domestic enquiry it is seen that the charges were adequately proved by the Respondent/Management against the Petitioner and the Respondent/Management of Union Bank of India, Zonal Office, Madras is justified in awarding the punishment to Sri A.N.Naveen Kumar, Cashier-cum-Clerk by dismissing him from the services of the bank. Further, as stated by the Disciplinary Authority in his final order of imposing punishment on the Petitioner for the proved misconduct after affording him a personal hearing that the bank may loose the confidence of the public on which the banking industry is running and would affect the customer service to a great extent, if the Petitioner has not been properly dealt with for the proved misconduct and he must be dealt with firmly so that others do not indulge in such activities. The observation of the Disciplinary Authority that the Petitioner for his behaviour as a bank employee should be dealt with firmly so that others do not indulge in such activities is correct and proper on the basis of the facts and circumstances. His further observation that considering the gravity of the misconduct that he must be punished with dismissal

without notice with immediate effect and that would be the adequate punishment for his gross misconduct viz. doing acts prejudicial to the interests of the bank involving the bank in serious monetary loss for awarding the punishment of dismissal from service for the bank without notice with immediate effect is also correct and proper. Hence, the punishment imposed by the Disciplinary Authority against the Petitioner for the proved misconduct cannot be interfered with by this Tribunal. Hence, such punishment imposed by the bank management for the proved misconduct of the Petitioner Naveen Kumar cannot be considered as grossly disproportionate to the proved misconduct committed by him. Hence, Sri A.N.Naveen Kumar is not entitled for any relief. Thus, the point is answered accordingly.

12. In the result, an Award is passed holding that the concerned workman Sri A.N.Naveen Kumar is not entitled for any relief No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 11th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :-

On either side : None

Documents Exhibited :-

For the I Party/Workman :-

Ex. No.	Date	Description
W1	25.11.92	Xerox copy of the memo issued to Petitioner by Respondent/Bank calling for explanation.
W2	07.12.92	Xerox copy of the explanation submitted by the Petitioner to the memo.
W3	20.01.93	Xerox copy of the memo issued to Petitioner intimating about Enquiry.
W4	21.04.93	Xerox copy of the supplementary charge sheet issued to Petitioner.
W5	15.05.93	Xerox copy of the memo issued to Petitioner intimating the details about enquiry being conducted.
W6	Nil	Xerox copy of the enquiry proceedings.
W7	30.08.93	Xerox copy of the findings of Enquiry Officer.
W8	25.10.93	Xerox copy of the proceedings of personal hearing.
W9	20.11.93	Xerox copy of the order of dismissal issued to Petitioner
W10	01.01.94	Xerox copy of the appeal preferred by Petitioner.
W11	02.03.94	Xerox copy of the order of Appellate Authority.

For the II Party/Management :- Nil

नई दिल्ली, 17 फरवरी, 2003

का. आ. 837.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ हैदराबाद के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, हैदराबाद के पंचाट (संदर्भ संख्या 267/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-2-2003 को प्राप्त हुआ था।

[सं. एल-12014/3/2003-आई आर (बी-1)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 17th February, 2003

S.O. 837.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 267/2001) of the Central Government Industrial-Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Hyderabad and their workman, which was received by the Central Government on 14-02-2003.

[No. L-12014/3/2003-IR-(B-I)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT

Shri E. ISMAIL, Presiding Officer

Dated:- 3rd February, 2003

INDUSTRIAL DISPUTE No. L.C.I.D. 267/2001

(Old I. D. No. 12/2001 transferred from Labour Court-I, Hyderabad)

BETWEEN:

Sri D. K. Padma Raj,
S/o D. J. Abraham,
C/o Sri S. Prasada Rao, Advocate,
117, Jamuna Towers,
Nalgonda X Roads, Hyderabad-36.Petitioner

AND

1. The Managing Director,
State Bank of Hyderabad,
Gunfoundry, Hyderabad.
2. The General Manager(Operation),
State Bank of Hyderabad
Gunfoundry, Hyderabad.

3. The Regional Manager, Region II,
State Bank of Hyderabad,
Regional Office, Khammam
Khammam District.

4. The Branch Manager,
State Bank of Hyderabad,
Venkatapuram Branch,
Khammam District.

... Respondents

APPEARANCES:

For the Petitioner : M/s S. Prasada Rao & K. Swarna
Kumari, Advocates

For the Respondent : M/s V. Jogayya Sarma, V. Venkat
Rao, C.N. Moorthy & J. Madhavi
Latha, Advocates

AWARD

This case I.D. No. 12/2001 is transferred from Labour Court-I, Hyderabad in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D. No. 267/2001. This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. In spite of several adjournments given from 27-3-2002 for evincing of Petitioner's evidence for sixteen adjournments including 3-2-2003 the petitioner has not turned-out. In spite of number of adjournments the petitioner has failed to produce any evidence in support of his claim. There is nothing on record to support the case of the Petitioner. Therefore, it is held that the petitioner is not entitled for any relief.

Accordingly a 'Nil' Award is passed, Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 3rd day of February, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner
NIL

Documents marked for the Respondent
NIL

नई दिल्ली, 17 फरवरी, 2003

का. आ. 838.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, नई दिल्ली के पंचाट (संदर्भ संख्या आई डी. नं. 143/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-02-2003 को प्राप्त हुआ था।

[सं. एल-12012/210/96-आई आर (बी-1)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 17th February, 2003

S.O. 838.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I. D. No. 143/97) of the Central Government Industrial-Tribunal-cum-Labour Court, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 14-02-2003.

[No. L-12012/210/96-IR (B-I)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT: NEW DELHI

PRESIDING OFFICER: SHRI B.N. PANDEY

I.D. No. 143/97

Shri S.K. Taparia,
C/o Shri J.N. Kapur,
33-34, Bank Enclave,
Ring Road,
Rajouri Garden,
New Delhi-110027.

Workman

Versus

The Assistant General Manager,
State Bank of India,
Region II,
Zonal Office,
Garh Road, Meerut.

... Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/210/96-IR(B) dated 18-9-97 has referred the following industrial dispute to this Tribunal for adjudication:—

“Whether the action of the management of State Bank of India in discharging the services of Shri S.K. Taparia, Ex-Clerk w.e.f. 2-11-94 is just fair and legal? If not, to what relief he is entitled and from what date?”

2. As per statement of claim, in brief, the workman has alleged that he joined the service of State Bank of India at Sadulsahar (Rajasthan) Branch on permanent basis

in August, 1974. Thereafter he was transferred to various places from Sadulsahar Branch and lastly he was transferred to Hapur in March 1978 and therefrom transferred and posted in its main Branch Hapur in 1989. That he was Unit Secretary of S.B.I. Staff Association and in that capacity he had been challenging the various corrupt malpractices of the then Branch Manager R. K. Rastogi; that he also exposed various corrupt practices of other officers namely Shri R. N. Sharma the then A.G.M. (Assistant General Manager) Region II Zonal Office, Shri K. K. Saxena the then Deputy General Manager at Local Head Office. Therefore, they became vindictive towards him and hatched conspiracy to remove him from the service of the Bank. Hence they cooked up a false case against him and he was suspended with effect from 28th December, 1989. He was served with the chargesheet vide management letter No. M.R.T./DAS/Ind/PCF/183 dated 17-6-91 i.e. after a lapse of 18 months. The Management also referred the matter to the C.B.I. but it was reported that C.B.I. did not register case and submitted its final report to the management, but the management still wanted to punish him by hook or crook, therefore, they started departmental enquiry against him. Shri Satnam Singh, Assistant General Manager at New Delhi main branch was appointed as Enquiry Officer who started the enquiry on 28-12-91 and concluded the same on 20-7-93. The Enquiry Officer submitted his findings to the Disciplinary Authority and acquitted the workman on all the major charges. That the disciplinary authority K.S. Kohli much before issuing show cause notice recommended to the Chief Vigilance Officer for his approval that one increment of the workman be reduced for two years but after sometime he told to the representative of the workman that B.N. Magon, Chief Vigilance Officer did not agree to his proposal and directed him to remove the workman from the bank service. Thereafter the workman representative met Shri Magon and talked to him in this respect. Then Shri Magon informed that Kohli had recommended for reduction of one increment for two years and that they have not suggested him for any higher punishment, then the workman's representative again met Mr. Kohli, Shri Kohli told him that he could not tell in detail but there was lot of pressure from Chief Vigilance Officer on him to remove the workman from the bank service. That the disciplinary authority was so much terrorised by the Vigilance Department that he turned vindictive and biased towards the workman, hence he discarded findings of the Enquiry Officer and issued show cause notice to the workman for his discharge from bank service without notice. The workman submitted a detailed reply to the show cause notice of the disciplinary authority, vide his letter dated 29-6-94. The Disciplinary Authority granted the workman personal hearing on 13-8-94 but the personal hearing was a sham show. The disciplinary Authority passed the final impugned order of discharge vide his letter dated 26-10-94 which is unjust and illegal. It

is further alleged that the disciplinary authority did not pass the reasoned order and also did not answer issues raised by the workman. The impugned order of discharge was also challenged by the workman in appeal but the appeal was rejected by the Appellate Authority without affording him any opportunity of hearing. The impugned order of discharge was challenged by the workman before the A.L.C. (Central) New Delhi but the conciliation proceedings ultimately failed. Hence this reference. The workman has challenged the impugned order on various grounds inter alia that the charge were not proved in the enquiry and the D.A. was a biased authority. He did not act fairly and judiciously, that they acted against the principles of natural justice; that the disciplinary authority wrongly and illegally ignored the findings of the Enquiry Officer and issued show cause notice without recording his own separate finding or speaking order and finally confirmed the discharge order which alongwith the order of the Appellate Authority deserves to be quashed, and the workman deserves to be reinstated in the service with full back wages and other benefits.

3. The Management has disputed the claim of the workman on various grounds. In the written statement it has been categorically denied that any corrupt practice was being carried out in the Branch and/or the officers of the Management were acting in collusion with each other against the workman and that they acted maliciously against the workman in holding the enquiry and in passing the impugned order of discharge. It has also been categorically denied that the enquiry officer acquitted the workman of all the major charges. It is alleged that all the charges stood proved during the enquiry proceedings. As the enquiry officer did not appreciate and scrutinise the evidence placed before him during the enquiry proceedings properly, the Disciplinary Authority after assessing the evidence himself found all the charges proved, therefore, rightly punished the workman with the punishment of discharge without notice. The Appellate Authority has also rightly dismissed the appeal that the punishment order was passed after holding proper enquiry against the workman and there was no illegality or breach of principles of natural justice; that the punishment of discharge could not be termed as a retrenchment by any stretch of imagination, therefore, compliance of the provisions of Section 25-F of the I.D. Act, 1947 does not arise; that the workman is not entitled to reinstatement or back wages or any other relief and his claim has no force, that the reference deserves to be answered in favour of the management.

4. The workman also filed his rejoinder to the written statement of the management reiterating his earlier versions. He added that the enquiry officer has exonerated the workman of all the charges and the disciplinary authority acted illegally in differing from the

findings of the enquiry officer without passing any speaking order and recording any reasons for the same; that the disciplinary authority also did not afford him proper opportunity and acted in violation of principles of natural justice.

5. On the basis of pleadings following issues have been framed :—

1. Whether the domestic enquiry conducted by the management against the workman is fair and proper?

2. As in the terms of reference.

6. Both are parties led their evidence in support of their case. Besides filing the documents, management filed affidavit of Shri Satnam Singh the Enquiry Officer and also examined him. On the other hand the workman filed his own affidavit besides filling several documents. He was also cross-examined by the A/R of the Management.

7. I have heard learned counsel/AR of both the parties, considered their submissions, perused the file and the case laws.

FINDINGS

ISSUE NO. 1 Whether the domestic enquiry conducted by the Management against the workman is fair and proper?

8. On this issue, it has been vehemently argued on behalf of the workman that the disciplinary authority while dissenting with the findings of the enquiry officer did not record any specific reason for not agreeing with the findings of the enquiry officer before issuing show cause notice of proposed punishment. As he was biased he straightway differed with the findings of the Enquiry Officer in arbitrary manners and gave notice of proposed punishment. He also did not give any copy of his own findings to the workman before issuing show cause notice to enable him to explain and reply it which was in clear violation of the principles of natural justice and has resulted into miscarriage of justice.

9. It is to be mentioned that charges numbered as (a-i), (a-ii) (b) and (e) and (g) levelled against the workman were not found proved by the enquiry officer. The evidence of the hand writing expert was found not reliable by the Enquiry Officer. The Enquiry Officer while recording his findings on issue No. a(i) held- "From the above proceedings it is quite evident that the Account of M/s Anubhav Khadi Udyog was neither a fictitious account nor it was being operated by the E.P.A. i.e. S.K. Taparia. The documents-----alleged to be disputed-----are not in the hand writing of Shri S.K. Taparia as asserted by Ashok Kashyap (Expert) in his opinion report. This has totally demolished the credibility and reliability of his opinion." Again in his

findings on charge No. a(ii) the Enquiry Officer held that "The opinion of the Hand Writing Expert considerably lacks reliability and credibility on account of certain blunders committed by him during the examination. To be very prices, he has done his job hopelessly and his report lacks professional integrity."

10. The Enquiry Officer at another place further held that "the evidence brought on record by the defence completely out weights that of bank and the charge stands completely demolished." On charge No. (b) the E.O. clearly recorded his specific finding that "From the above it is quite clear that neither his Account was a fictitious account not it was being operated by Sri S.K. Taparia i.e. E.P.A."

11. On charge No. (e) the E.O. held "As per the law of our land and various Judicial Pronouncement by the Supreme Court, the opinion of a hand writing expert can be and should be treated only secondary evidence. The reliance on it can be placed only if it is corroborated by some concrete evidence which is not there in this case."

12. On charge No. (g) the Enquiry Officer held that "no evidence has been led to prove the financial nature on the Transaction between Sri S.K. Taparia and Sri D.P. S. Verma." Hence the Enquiry Officer found all these charges not proved. But ignoring the findings of the enquiry officer, the D. Authority believed the only opinion evidence of the hand writing expert and on that basis alone, held the workman guilty of the charges and issued a show cause notice to discharge him from service. As the D.A. has differed with the findings of the Enquiry Officer, it was obligatory on his part to record tentative reasons for disagreement and send the same to the workman to explain before him, before recording his own findings and issuing show cause notice of proposed punishment. But it was not done in clear violation of principles of natural justice. In P.N.B. and other Vs. Kunj Behari Mishra and others reported in 1998 S.C. Cases (L&S) page 1783, the Hon'ble Supreme Court has held that "Whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade disciplinary authority to accept the favourable conclusion of the enquiry officer. The principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer." Admittedly this was not done by the disciplinary authority. In Bank of

India and another Versus Degala Surya Haryana reported in 1999 SC cases (E&S) 1036, the Hon'ble Apex Court held at page 1041 that "the law is well settled. The Disciplinary Authority on receiving report of the inquiry officer may or may not agree with the findings recorded by the latter. In case of disagreement, the Disciplinary Authority has to record the reasons for disagreement and then to record his own findings if the evidence available on record be sufficient for such exercise." further it was held at page 1042 "mere conjecture or surmises cannot sustain the finding of guilt even in departmental inquiry proceedings." In the instant case admittedly there was no other evidence to prove the alleged charges of forgery against the delinquent employee except the opinion of the expert which was also found, by the inquiry officer as unreliable. Admittedly the workman was secretary of the State Bank of India Staff Association. According to him the top officers of the management were so much annoyed with him, due to his trade union activities, that they had threatened him at several times orally as well as in writing and become vindictive and adopted revengeful approach towards him (the workman). He also alleged that the then President of the Bank Staff Association had also written a letter dated 19-6-88 (Which was much before his suspension) to Shri M. G. Bhide the then General Manager (Operations) State Bank of India Local Head Officer, New Delhi complaining against the Branch Manager R. K. Rastogi about his vindictive approach and victimizing activities against the workman who was the then secretary of the union. The president of the union had also mentioned in his letter that the Branch Manager had threatened that he would get their unit secretary Shri Taparia (workman) transferred and punished." The above letter was written about 18 months before the suspension of the workman.

Thus the workman has come with a definite allegation that the top management was biased towards him because of his trade union activities. Therefore, their biasedness flowed to all channels of administration including the inquiry officer and the Disciplinary Authority. As all of them were part and parcel of the Management. Hence they acted arbitrarily against all ethics and cannons of natural justice. He has also alleged that the Disciplinary Authority acted illegally and punished him under pressure of the chief vigilance officer as also being biased, ignoring all the legal norms and principles of natural justice. The workman has also deposed these facts against the officers of the management in his own affidavit filed in evidence before this Tribunal which remains un rebutted and uncontroverted. He was not even cross-examined by the authorised representative of the management on these points.

It was argued on behalf of the workman that the biased inquiry officer neither discussed the defence documents/evidence of witnesses nor gave any

cognizance to them that the inquiry officer as well as disciplinary authority so far as they recorded their findings against the workman acted arbitrarily and did not appreciate and evaluate the evidence on both the sides properly and recorded their findings arbitrarily merely on the basis of conjectures and surmises and certain illegal presumptions. It was pointed out that there was no evidence to prove even those charges which have been held as proved by the inquiry officer. The inquiry officer while recording his findings on those charges against the workman adopted negative approach and instead of considering evidence of the management to prove the charges he gave his findings merely on certain assumptions. The law requires that the management has to stand on its own leg to prove the charges. It cannot take benefit of any latches of the other side i.e. the charged employee.

On perusal of the findings of the inquiry officer on charge No. 'C' I find that the inquiry officer held the charge 'C' as proved on the evidence of PW1 R.K. Rastogi alone with the help of P. Ext. 112 and also arbitrarily inferred from the statement of defence witness DW4 Pankaj Kumar in favour of the Management although disbelieving him. The Inquiry Officer himself while disbelieving the statement of DW4 observed that Shri Pankaj Aggarwal is not a 'God Man' but a simple businessman and seldom do any act without interest or consideration. This opinion of the Inquiry Officer was based on his own assumptions and presumption which was not just and proper. Shri Pankaj Kumar has clearly stated that "I have nothing to do with these shares. I did sign the allotment application without any contribution and interest". Besides, Shri R.K. Rastogi PW1 on being asked that "are you aware and do you know the name of bank customers with whom the E.P.A. was engaged in trade or business." He replied "I do not know". Even then the Inquiry Officer found the charge 'C' proved merely on such evidence of these witnesses which, in my opinion, was neither just nor proper. In my opinion this evidence was not sufficient to prove the charge. Similarly while recording his findings on charge 'D' Inquiry Officer did not consider the explanation of the workman that "In fact that cheque was given to him by M/s. Varun Trading Co. Hapur in lieu of the sale proceeds of some shares sold by him". Again while recording his findings on charge No. 'F', Inquiry Officer did not consider the contradictory statement of PW2 Sri S.K. Gupta that "the witness has however, added that as per his memory E.P.A. has submitted a bill for going to Gaziabad or Delhi". Further on charge 'H' the Inquiry Officer mentioned that PW1 Shri R.K. Rastogi has deposed that "I do not know that source of S.K. Taparia's income. However, it is not proportionate to his salary income". Even then the Inquiry Officer presumed and held that "I, therefore, treat the charge as proved." Thus I find that the evidence on the record was not sufficient to prove even charges C, D, F, and H which were found proved by the Inquiry Officer.

Apart from the above, coming to the findings of the Disciplinary Authority I find that the Disciplinary Authority has blindly accepted the opinion of the expert and gave his finding on his sole opinion evidence, who was admittedly a partisan and paid witness and was also found wholly unreliable by the Inquiry Officer. The disciplinary authority accepted his opinion without assigning any reason. The opinion evidence of the expert was also not corroborated by any other independent witness. Any charge/facts alleged cannot be held as proved merely on the basis of expert opinion in absence of any substantial evidence and corroboration. A delinquent employee cannot be held guilty, merely on the basis of suspicion. However, strong it may be. Even in a case of circumstantial evidence entire links of the circumstantial evidence must be so complete and reliable so as to conclude guilt of the accused/delinquent employee alone and none else. No doubt in the departmental proceedings disciplinary authority has got a very wide power but at the same time it has also to be kept in mind that the Inquiry proceedings are quasi-judicial proceeding which have to be conducted and concluded in accordance with the legal norms and principles of natural justice. Law does not permit or empower any authority to act arbitrarily. Even discretionary powers have to be exercised judiciously. In the instant case after perusal of the findings of the disciplinary authority as well as the findings of the inquiry officer, I find that the findings recorded by the disciplinary authority was based on surmises and conjectures and inadmissible and insufficient evidence only which cannot be justified in law. I also find that the findings on charges C, D, F and H of the Inquiry Officer was also not based on sound and sufficient evidence, it was based on certain assumptions and conjectures. It has also come on the record that the management had also lodged a complaint to the C.B.I. against the delinquent employee (workman) for taking action after investigation for the alleged act of his forgery, but after investigating the C.B.I. gave its final report and took no action against the employee. Besides, the Disciplinary Authority has passed the order of discharge under sub-para (5)(e) sub-para (10)(c) of para 521 of the Shastry Award which shows that the misconduct was condoned and the workman was merely discharged without notice. But at the same time he did not record any reason as to why it was not found expedient to retain the workman any longer in service, as required in the said para of the Shastry Award. It also goes to show that there was no evidence to prove the charges against the workman and the disciplinary authority arbitrarily held him guilty of the charges and punished and discharged him illegally. I also find that the disciplinary authority also did not consider previous records/conduct of the workman and any other aggravating and extenuating circumstances which might exist before passing the punishment order. Hence it was in clear violation of the mandatory provisions of para 19.12(C) of the 1st Bipartite Settlement which is

similar to that of the provisions of para 521(10)(c) of the Shastry Award and provides "In awarding punishment by way of disciplinary action the authority concerned shall take into account gravity of the misconduct, the previous record, if any, of the employee and any other aggravating or extenuating circumstances that may exist." The submissions and grievances of the workman were also not considered properly by the disciplinary authority before passing the punishment order and also by the Appellate Authority while dismissing the appeal.

In view of the above discussions, I find that the inquiry proceedings conducted against the workman were neither fair nor proper and just. It was in clear violation of law and principles of natural justice. The punishment order therefore alongwith the appellate order suffers from various illegalities and cannot be legally sustained and it is liable to be quashed. Issue No. 1 is, therefore, decided in negative.

No request to give opportunity to adduce further evidence was made in the written statement by the management nor there seems to be any justification to give further opportunity to the management to adduce any more evidence in the case as there was no other evidence or witness left which could not be produced or examined during the inquiry. I have already heard representatives of both the parties on its entirety of the case. I have also perused the whole evidence on the record.

Issue No. 2 As in terms of reference.?

In view of my above findings on issue no. 1, I am of the view that the action of the management of State Bank of India in discharging the service of Shri S.K. Tapraia Ex-Clerk w.c.f. 2-11-94 is not just, fair and legal and it is, therefore, liable to be quashed. The inquiry officer and the disciplinary authority alongwith the Appellate Authority did not act fairly, in accordance with law and principles of natural justice. They gave their findings wrongly believing on unbelievable evidence and wrongly held the delinquent employee guilty of the charges levelled against him. The Appellate Authority also did not consider the grievances of the workman and illegally accepted wrong findings of the disciplinary authority as also the inquiry officer. Hence the order of punishment alongwith the appellate order suffers from illegalities and cannot be legally sustained.

Now while exercising my powers under section 11A of the I.D. Act, 1947, I have to see as to what relief the workman is entitled and from which date. In this regard I considered the evidence on the record, facts and circumstances of the case. The workman has alleged that since the date of discharge he made utmost efforts to find out a suitable remunerative job but he has failed in this regard on account of his age and stigma made by the

management. That he has completed more than 47 years of age with a large family to support and that he has been unable to maintain his family. That he has been getting financial assistance from his relatives and at the same time has undergone into serious debts. This fact has not been challenged or denied by the management. The management has also adduced no evidence in this regard. Therefore, there seems to be no reason to disbelieve the workman even on this point. The workman has also alleged that he has served the bank for about 20 years as on the date of discharge with unblemished service record. The management has also not adduced any evidence to prove his any previous history of misconduct. Therefore, under the facts and circumstances of the case, I am of the view that the workman is entitled to be reinstated in the bank service w.e.f. the date of discharge i.e. 2-11-94 with full back wages alongwith 9% interest thereon, with continuity of service and all other consequential benefits. He deserves to be reinstated in the service within a period of 30 days from the date of publication of the award and get all other benefits within 2 months thereafter. The reference is answered accordingly.

Dated 4-2-2003

B.N. PANDEY, Presiding Officer

नई दिल्ली, 17 फरवरी, 2003

का. आ. 839.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ हैदराबाद के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, हैदराबाद के पंचाट (संदर्भ संख्या आई.डी. नं० 7/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-02-2003 को प्राप्त हुआ था।

[सं. एल-12014/2/2003-आई. आर. (बी-1)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 17th February, 2003

S.O. 839.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D. 7/2001) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Hyderabad and their workman, which was received by the Central Government on 14-02-2003.

[No. L-12014/2/2003-IR(B-I)]

C. GANGADHARAN, Under Secy.

**ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present

Shri E. ISMAIL
Presiding Officer

Dated, the 20th day of January, 2003
INDUSTRIAL DISPUTE L.C.LD.No.7/2001

Between:

Sri N. Poshetty,
H.No.11-93, Post & Vill. Rudroor,
Mandal: Varni, Nizamabad Dist.

.....Petitioner

AND

1. The General Manager,
State Bank of Hyderabad,
Gunfoundry, Hyderabad.
2. The Branch Manager,
State Bank of Hyderabad,
Salora, Post: Bodhan,
Nizamabad District.

.. Respondents

Appearances:

For the Petitioner : M/s V. Narsimha Goud &
A. Manjula, Advocates
For the Respondent : Sri A.V.S.S. Prasad, Advocate..

AWARD

This is a case taken under Sec.2 A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No.8395 of 1989 dated 3.8.1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. Brief facts as stated in the petition are: That the Petitioner worked as a sweeper-cum water boy from 1.8.94 to 15.4.96 till his services were terminated by the second Respondent on 15.4.96 without any valid reason. His last drawn salary was Rs.350/-. He has been approaching the Respondents to reinstate him but he was dodged. Ultimately he issued advocate notice dated 23.6.99 and requested for reinstatement. But no reply was given. That his services were terminated in violation of Sec. 25F of the I.D. Act. Under these circumstances the Respondent may be directed to reinstate him with back wages, continuity of services etc.

3. A counter was filed stating that the Petitioner never worked for 240 days in a calendar year. And the Petitioner was appointed without any authority and as such the employment is illegal and the appointment is non-existent in the eye of law. The Petitioner was a daily wage labourer engaged only on the basis of a contract lasting for a day.

4. As per Government of India instructions issued regarding absorption of temporary employees dated 6.8.90 those temporary employees who have put in minimum temporary service of 90 days or more after 1.1.82 and who have fulfilled prescribed eligibility criteria considered for appointment in the subordinate cadre and thereafter as

per Government guidelines no absorption of daily wage employee will be considered by the bank. That the Petitioner never worked as sweeper/water boy continuously from 1.8.94 to 15.4.96. The Petitioner was engaged as and when there is work in the Respondent bank to sweep and clean the branch premises twice or thrice in a month whenever the permanent peon went on leave and the Petitioner was suitably remunerated. The Petitioner was never paid any salary or allowances as he was never appointed in the organization. The Petitioner was never in continuous service for 240 days in a calendar year. Hence, there is no violation of Sec. 25F of the I.D. Act. After the above said employment for the best reasons, the Petitioner has not turned up to the branch for any work. The workman has not proved that he has worked for 240 days in a calendar year. That the Hon'ble Supreme Court has stated that permanent employment status cannot be granted to temporary or daily wage workers. Hence, the petition may be dismissed.

5. Sri N. Poshetty, the Petitioner examined himself as WW1 and deposed to the said facts stated in the chief examination that he worked from 1.8.94 to 15.4.96 from 9AM to 5.30 PM. He was getting Rs.350 per month. He has failed X class. That when he reported for duty on 14.4.96 the 2nd Respondent informed him that in his place some other person has been appointed and his services are not required. He was not in notice or paid pay in lieu of notice. That he worked continuously during the said period. That he got issued Ex. W1 notice of the Advocate, Ex. W2 and Ex. W3 are the postal acknowledgements of R1 and R2 respectively. Ex. W4 is one such letter written on 9.1.96 about appointment of Sri N. Poshetty. Ex. W5 is the Xerox copy of the order issued dated 21.4.95 sanctioning post of sweeper cum water boy at Saloor branch. On a consolidated service wages of Rs.350/- per month. The said Branch wrote a letter Ex. W6 which is written by the Branch Manager, Saloor. Ex. W7 shows the minimum qualification as 7th standard. Ex. W8 and Ex. W9 are the letters written about his services. Ex. W10 is the letter of the Branch Manager forwarding the certificates of the Petitioner.

6. In the cross examination he deposed that he was not given appointment order. He was terminated orally. He denied that he was paid on daily wages. He denied he has stolen the bank file pertaining to daily wage employees. He denied he did not turn up for service to the bank for several months. He denied that one of the reasons in not taking him is theft of daily wage register. It is correct that Ex. M1 bundle vouchers contain his signatures, but that is for his miscellaneous expenditure. That he did not file any documents. His monthly salary was Rs. 350.

7. Sri B. Rajeswar was examined as WW2. He deposed that he is an agriculturist and presently Sarpanch. That he is having three accounts with the R2 bank. During period 1994-96 he was having two accounts with the bank. That he used to find the Petitioner used to do the works

such as carrying ledgers and files etc. He has not brought any pass book at present.

8. In the cross examination he deposed that he used to visit the bank twice or thrice in a week. He is not aware on what terms the Petitioner's services were engaged by R2. He denied that to help the Petitioner as a Sarpanch he is deposing falsely.

9. Sri Ramachandra Misra, Branch Manager, Saloor deposed that he does not know WW1 personally. He is deposing from record. He was working on daily wage basis as and when work is available. Only for few hours a day. As he did not turn up his services could not be utilized after April, 1996. Ex.M1 are the vouchers through which he was paid for the work done. The file pertaining to Petitioner is misplaced and not traceable. He has given a police complaint. The police acknowledged which is Ex.M2. He was not paid monthly wages at the rate of Rs.350 per month. In the cross examination he said what he means by record is vouchers Ex.M1. It is correct that WW1 was cross examined on 19.12.2001 and Ex.M2 police complaint was given on 27.3.2002. He denied that the record is not placed but purposely it is hidden or destroyed as the record would substantiate the case of WW1. Sweeping and bringing water are perennial in nature. Three officers, three clerks and two peons in the branch. He would file the lease deed to show plinth area. He cannot say whether Ex.W4 was written on 9.1.96 by the then Branch Manager for appointment of WW1. That WW2 is a Sarpanch having account with them. The Branch Manager who worked between 1994-96 has taken VRS. Sailoo is working them who is appointed by head office. He cannot say that Sailoo is appointed in the place of the Petitioner. He denied that he is deposing falsely.

10. It is argued by the Learned Counsel for the Petitioner that the Petitioner was discharging duties permanent in nature and in fact the name of the Petitioner was also sent to the first Respondent along with all his educational certificates for regularization of his services and the said post was also notified by the 2nd Respondent with the employment exchange, Nizamabad. When the Petitioner returned for duty on 15.4.96 he was not allowed by the 2nd Respondent. That Sec. 25-F and H were not followed. Having no resort the Petitioner issued a notice dated 23.6.99 to the Respondent though the Respondent received the notice on 28.6.99 no reply was given. Hence, the above dispute. The Respondent filed counter contending that the Petitioner was appointed without any authority as such appointment shall be illegal. Further contended that the Petitioner was engaged only twice and thrice in a month and contended that he never approached after 15.4.96. That it is a permanent post and the Chief Manager of the Personnel Department of the first Respondent issued proceedings to fill up the said post. No additional counter was filed refuting the facts mentioned in the reply of the Petitioner. The Petitioner was examined on 31.10.2001 and marked Ex.W1 to Ex.W10. The

Respondents did not cross examine on 15.11.2001, 21.11.2001 and 6.12.2001. On 19.12.2001 WW1 was cross examined in part and cross examination was completed on 7.1.2002. It was put to elicit that the Petitioner committed a theft of the bank daily wages employees' register. It clearly suggests that the bank has purposely suppressed the fact. WW2 Sarpanch deposed that the Petitioner worked in the Saloor branch of the Respondent bank during the period from 1994-96. MW1 admitted in his cross examination that the complaint was given on 27.3.2001. He also admitted that the WW2 is a regular customer to the bank. It is for the Respondent to prove that the Petitioner has not worked for more than 240 days by producing all relevant wages register, attendance register, which are in the custody of the Respondent. Since they are not produced inference in favour of the Petitioner should be drawn. In a case reported in 2000 LLR Supreme Court page 525 it is held that daily rated employees are also covered by I.D. Act. In another case 2002 LLR Supreme Court page 407, it was held that terminating the services of a temporary employee/daily rated employee on the grave allegation without conducting any enquiry is against the principles of natural justice and violative of fundamental rights as guaranteed in the Constitution of India. He also relied on 1997 (4) ALD Divisional Bench page 415 where the Hon'ble Court held that discharging duty cost upon the management to produce all the wage registers and attendant registers to prove that the daily rated workers did not complete 240 days of service in any of the year of service and non-production of those documents would certainly gives an adverse inference that the workman has completed the 240 days of service. In the instant case he has worked for almost 2 years from August, 1994 to 15.4.96 as a sweeper cum water boy. Yet the Respondent did not comply with Sec. 25 F or H. Hence, the Petitioner may be reinstated into service with all consequential benefits.

11. It is argued by the Learned Counsel for the Respondent that the Respondent has never worked in the second Respondent branch for more than 240 days in the calendar year and the Petitioner was appointed without authority and as such employment is illegal and the appointment is non-existing in the eye of law. The Petitioner was a daily wage labour engaged only on the basis of contract lasting for a day and each engagement is a fresh appointment. That as per Government of India instructions dated 6.8.90 those temporary employees who have put in minimum temporary service of 90 days or more after 1.1.82 and who have fulfilled prescribed eligibility criteria were considered for appointment in the sub-ordinate cadre and thereafter as per Government of India guidelines no temporary employee will be considered for absorption by the bank. He never worked continuously from 1.8.94 to 15.4.96. He was only engaged as and when there was work to sweep and clean the branch premises perhaps twice or thrice in a week. Whenever the permanent peon went on leave and he was suitably remunerated. He was never paid

any salary. There were no appointment orders or termination orders were issued to him. Since there is no appointment and termination therefore there is no violation of Section 25 F of the I.D. Act, 1947 and no unfair labour practice was meted to the Petitioner. In 1970 (2) LLJ page 306 Hon'ble High Court observed that enquiry has to be made to find whether the workman has actually worked for not less than 240 days during a period of 12 calendar months immediately preceding the retrenchment. Hence, he cannot claim reinstatement. The working of the applicant in different branches in different categories cannot be clubbed together.

12. Similarly, the earlier part time employment cannot be taken into account for computing 240 days that it was held in 1990 LAB IC page 2662. At some time in the case of *Himanshu Kumar Vs. State of Bihar* in AIR 1997 SC page 3657 it was held by the Apex Court that a daily wage employee has no right to the post, therefore the concept of retrenchment cannot be extended to a daily wage employee. The disengagement of daily wage labour, who is engaged only on the basis of a contract lasting for a day only and each engagement is a fresh engagement. He also relied on Hon'ble Apex Court's Judgement in *Deep Chandra Vs. St. of UP* 2001-1 LLJ 742(SC), the Hon'ble Supreme Court has categorically held that if an employee is reinstated consequent upon illegal termination then he shall be reinstated in his original service on the same terms and conditions in which he was working and in other work a temporary or daily wagger cannot become permanent employee upon reinstatement. Hence, the Petition may be dismissed.

13. It may be noted that Ex.W4 is a letter dated 9.1.96 written by R2 to the Regional Manager, Region II, Nizamabad stating about the sanction of post of sweeper-cum-water boy referring to their earlier letter dated 21.12.95 asking for advise with regard to appointment to Sri N. Poshetty the Petitioner herein for the above post at the premises and Ex.W5 is a letter from R.1 stating that the competent authority has approved a post of sweeper-cum-water boy at the Saloor branch on consolidated pay @ Rs.350 per month. Ex.W6 is a letter dated 1-11-95 is calling for the application for water boy. Ex.W7 shows the minimum qualification required. Ex.W8 is a letter which shows whether it is questioned as to the date from which N. Poshetty working at the branch and the wages being paid. Ex.W9 is again another letter dated 17.3.95 that the copy of transfer certificate of N. Poshetty and copy of lease deed have been sent. Ex.W10 is the letter forwarding the certified copies of transfer certificate of N. Poshetty and copy of lease deed of the branch. In the cross examination the Petitioner admitted that Ex.M1 bundle of vouchers contains signature which he received for miscellaneous work. WW2 is a Sarpanch Sri B. Rajeswar who was having three accounts in R2 branch. During 1994-96 he was having two accounts with the bank and that he used to find the Petitioner do such work as carrying

ledgers and files etc. MW1 the Branch Manager conveniently says that the file pertaining to Petitioner is misplaced and not traceable. He has given a police complaint. The acknowledgement is Ex.M2 dated 27.3.2002 obviously appears to be an after thought. I directed them to file a memo as to what is the carpet area. The carpet area of the branch is 2049.90 Sq. ft. So it is clear that the Petitioner did work from 1994-96 as stated by him, the file is lost according to the bank, but the correspondence speaks volumes that the branch itself was requesting and had forwarded the application of the Petitioner. WW2 has stated to the said facts and obviously it cannot be said that 2050 Sq. ft. Does not require sweeping and cleaning it is a perennial job. Section 25F has not been applied and there is no unwanted delay on the part of the Petitioner in approaching the Tribunal. Hence, the R.1 is directed to accommodate the Petitioner Sri N. Poshetty and appoint him within 30 days from the publication of this award on temporary basis as sweeper-cum-water boy on the consolidated pay whatever is payable now. Award passed. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 20th day of January, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri N. Poshetty	MW1: Sri Ramachandra Misra

WW2: Sri B. Rajeswar

Documents marked for the Petitioner

Ex.W1:	Copy of Notice of Advocate dt.23.6.1999
Ex.W2:	Postal acknowledgement of Ex.W1
Ex.W3:	Postal acknowledgement of Ex.W1
Ex.W4:	Copy of appointment letter No.F.2/95-96/272 dated 9.1.96
Ex.W5:	Copy of order for sanction of post of sweeper etc. dt.21.4.95
Ex.W6:	Copy of letter by Branch Manager, Saloor No.F-3/200 dt. 1.11.95
Ex.W7:	Copy of notification of vacancies to employment exchange dt. 1.11.95
Ex.W8:	Copy of letter reg. Appointment of WW1 No.F.RO/NZE/Gr.1/94-95/101 dt. 19.1.95
Ex.W9:	Copy of appointment order No.Per/Gr.VI/9405 dt. 17.3.95
Ex.W10:	Copy of forwarding letter No.F/3/4 dt.7.4.95

Documents marked for the Respondent

Ex.M1:	Copies of vouchers under which the WW1 paid
Ex.M2:	Copy of Police complaint reg. Missing file of WW1 No.F/Poshetty/ dt.27.3.2002

नई दिल्ली, 17 फरवरी, 2003

का. आ. 840.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया, कानपुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, लखनऊ के पंचाट (संदर्भ सं. आई.डी. नं. 94/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-2-2003 प्राप्त हुआ था।

[सं. एल-12012/152/2000-आई, आर, (बी-1)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 17th February, 2003

S.O. 840.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 94/2000) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India, Kanpur and their workman, which was received by the Central Government, on 14-2-2003.

[No. L-12012/152/2000-IR(B-I)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, LUCKNOW

PRESENT

RUDRESH KUMAR

Presiding Officer

I.D. No. 94/2000

Ref. No. L-12012/152/2000/IR (B-I), dated 8-9-2000

BETWEEN

The President, State Bank of India Karmchari Sangh,

K-46, Devendra Puri, Kidwai Nagar,
Kanpur (U.P.)-208001

And

The Assistant General Manager,
State Bank of India Region-II,
Zonal Office, Kanpur-208001

AWARD

By order No. L-12012/152/2000/IR(B-I), dated 8-9-2000, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and section 2A of I.D. Act, 1947 (14 of 1947) referred this industrial dispute between the President, State Bank

of India Karmchari Sangh, K-46, Devendra, Puri Kidwai Nagar, Kanpur (espousing cause of Smt. Gangoo Devi) and the Assistant General Manager, State Bank of India, Regional-II, Zonal Office, Kanpur for adjudication.

The reference under adjudication is as under :—

“Whether the action of the management of State Bank of India in denial of Annual increments and adjusting allowance to Smt. Gangoo Devi, Part time Sweeper/Farrash for the period with effect from 1-9-1976 to 1-1-1989 by the Management of State Bank of India, Kanpur is just, fair and legal ? If not, what relief she is entitled to and from what date ?”

2. Smt. Gangoo Devi, the workman, was appointed on 1-9-1976 at P. Road branch of State Bank of India, Kanpur, as part time sweeper on 3/4th salary and allowances. She worked in the said branch upto 26-6-86 and thereafter, was transferred to Chamanganj branch of the said bank. She states to have been appointed on compassionate ground on demise of her husband Sri Narain who passed away on 7-2-76. He was a permanent sweeper-cum-farrash on 3/4th salary and on his demise she was appointed on regular basis. She was denied increment and adjustment allowance until her services were regularised at Chamanganj branch in the year 1989. The grievance of the workman is that the bank denied adjustment allowance on pro rata basis for 1-9-78 and increment on pro rata basis in lieu thereof from 1-7-83.

3. The management of the State Bank of India, contested the claim. It has denied that Smt. Gangoo Devi was appointed as part time sweeper or got compassionate appointment as alleged. The locus standi of the representing union is also challenged. It is stated that Smt. Gangoo Devi was, in fact, engaged from 1-9-76 as part time sweeper-cum-farrash on 3/4th salary and on her transfer from P. Road Branch joined at Chamanganj branch on 27-6-86. She continued to work as temporary part time sweeper-cum-farrash upto 1-1-89. She was appointed as permanent sweeper-cum-farrash w.e.f. 2-1-89 in the same scale of pay. She is getting all pecuniary benefits as per entitlement including increments and adjusting allowance on being permanent.

4. The main controversy is about service status of the workman on or after appointment on 1-9-76 until 1-1-89, when she became permanent. She is getting all her legitimate dues after 1-1-89. The reference order does not indicate about any dispute subsequent to this date. The basis of appointment whether compassionate or otherwise has not been explained by the management. It is also not explained as how she was appointed on 3/4th wages as temporary part time sweeper whereas, para 20.7 and 20.8 of the Bipartite Settlements envisage and permits such appointment for three months only.

5. Para 20.7 and 20.8 of the Bipartite settlements 1966, deals with the temporary appointment. A simple perusal of the above provisions shows that a temporary employee can be appointed for a limited period of 3 months against a permanent post or temporary increase of work. If Smt. Gangoo Devi was not appointed on compassionate ground as alleged by her, she should not been allowed to continue as temporary part time sweeper for about 13 years at P. Road branch or Chamanganj branch. As temporary employee she could not have been transferred from P. Road branch to Chamanganj branch. Her transfer after rendering 10 years service indicates that she was treated regular employee.

6. The plea of the workman that permanent part time post of Safaiwala existed as P. Road branch is acceptable. Had it not been so, the workman could not have been continued for more than 10 years and after her transfer some other person could not have joined there. The work was perennial in nature. The bank failed to show that she was not given compassionate appointed on regular basis but was engaged as temporary employee for any other consideration. In any event, the facts remains that she has been working continuously since 1.9.76 and was transferred to Chamanganj branch after 10 years i.e. on 26-6-86. No material has been placed by the bank to show that it was authorised to engaged a temporary employee for 10 years. Nothing has been shown to justify such a long temporary employment. This goes to show that the workman, in fact, was appointed as a temporary employee against the permanent vacancy on demise of her husband. Formal order of permanent was not issued, by it will not change her status of a permanent part time sweeper. Denial of increments and adjustment allowance is justified on the grand that such benefits are not admissible to the temporary employee. It is proved by the above discussions that the workman was appointed on regular basis against permanent vacancy. She should have made permanent part time sweeper after 3 months from the date of appointment.

7. As permanent employee she was entitled to increments and adjustment allowance. The action of the management is not justified in denying her increments upto 1-1-1989 and also adjustment allowance as admissible to such permanent part time employees as per rules/orders.

8. Accordingly, the action of the bank is not legal or justified in denying increment and adjustment allowance treating the workman temporary. She is entitled to all service benefits including increment and adjustment allowance as admissible to permanent part time sweepers in the bank. The reference is adjudicated in favour of the workman. She is entitled to relief as above.

9. Award accordingly.

Lucknow

29-1-2003

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 14 फरवरी, 2003

का. आ. 841.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद (संदर्भ संख्या 221/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-02-2003 को प्राप्त हुआ था।

[सं. एल-22013/1/2003-आई. आर. (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 14th February, 2003

S.O. 841.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 221/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 13-02-2003.

[No. L-22013/1/2003-IR(C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AT HYDERABAD

PRESENT:

SHRI E. ISMAIL, Presiding Officer

Dated 19th December, 2002

INDUSTRIAL DISPUTE NO. L.C.I.D. 221/2001

(Old I.D. No. 2/2000 transferred from Industrial Tribunal cum-Labour Court, Warangal)

Between :

Sri Ch. Rajaiah,
Senior Mining Sardar,
S/o Odelu,
R/o Parkal

..... Petitioner

AND

1. Managing Director,
Singareni Collieries Co. Ltd.,
Kothagudem.
2. The Executive Director,
Singareni Collieries Co. Ltd.,
Kothagudem.

..... Respondents

APPEARANCES:

For the Petitioner : M/s Satwath Rana,
Mohd. Salahuddin
and K. Sridhar, Advocates

For the Respondent : M/s J. Parthasarathy and A.
Chandrasekhar, Advocates

AWARD

This case I.D. No. 2/2000 is transferred from Industrial Tribunal-cum-Labour Court, Warangal in view of the Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D. No. 221/2001. This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. In spite of several adjournments given from 7-6-2002 for evidence of Petitioner for thirteen adjournments including 19-12-2002 the petitioner has not turned out. In spite of number of adjournments the petitioner has failed to produce any evidence in support of his claim. There is nothing on record to show that Petitioner has any case. Therefore, the dispute is ordered against the petitioner and it is held that the petitioner is not entitled for any relief.

Accordingly a 'Nil' Award is passed, Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 19th day of December, 2002.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL	NIL
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Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 14 फरवरी, 2003

का. आ. 842.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हैवी वाटर प्रोजेक्ट प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 207/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-02-03 प्राप्त हुआ था।

[सं. एल-22013/1/2003-आई. आर. (सी-11)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 14th February, 2003

S.O. 842.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 207/2001)

of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Heavy Water project and their workman, which was received by the Central Government on 13-02-03.

[No. L-22013/1/2003-IR(C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, AT
HYDERABAD**

PRESENT:

SHRI E. ISMAIL, Presiding Officer

Dated 8th January, 2003

INDUSTRIAL DISPUTE NO. L.C.I.D. 207/2001

(Old I.D. No. 7/99 transferred from Industrial Tribunal cum-Labour Court, Warangal)

Between :

Sri Md. Ariful Hussain,
C/o 16-9-749/41/1,
Old Malakpet,
Hyderabad-36

.... Petitioner

AND

The General Manager,
Heavy Water Project,
Manuguru
Khammam District

.... Respondents

APPEARANCES:

For the Petitioner : M/s G. Ravi Mohan,
R. Devender Reddy,
Ch. Satyanarayana and
G. Srinivas Reddy, Advocates

For the Respondent : M/s P. Damodar Reddy,
K. Sridevi and Y. Prabhu Raj.,
Advocates

AWARD

This case I.D. No. 7/99 is transferred from Industrial Tribunal-cum-Labour Court, Warangal in view of the Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D. No. 207/2001. This is a case taken under Sec. 2 A (2) of the I.D. Act, 1947 in view of the judgement of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. In spite of several adjournments given from 3-7-2002 for evidence of Petitioner for thirteen adjournments including 8-1-2003 the petitioner has not turned out. In spite of number of adjournments the petitioner has failed to produce any evidence in support of his claim. Petitioner's Counsel reports no instruction from Petitioner. There is not much on record to support the contention of the Petitioner. Therefore, the petition is ordered against the petitioner and it is held that the petitioner is not entitled for any relief.

Accordingly a 'Nil' Award is passed, Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 8th day of January, 2003.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 14 फरवरी, 2003

का. आ. 843.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद नम्बर 1 (संदर्भ संख्या 272/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-02-20003 प्राप्त हुआ था।

[सं. एल-22012/82/2003-आई. आर. (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 14th February, 2003

S.O. 843.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 272/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad No. 1 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 13-02-03.

[No. L-22012/82/2000-IR(C-II)]

N.P. KESAVAN, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

In the matter of a reference under Sec. 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 272 of 2000

Parties : Employers in relation to the management of the Regional Manager, F.C.I.

AND

Their Workman

Present : Shri S.H. Kazmi, Presiding Officer.

APPEARANCES :

For the Employers : Shri B.M. Prasad, Advocate.

For the Workman : Shri K. Chakravarty, Advocate.

State : Bihar. Industry : Food.

Dated the 3rd February, 2003.

AWARD

By order No. L-22012/82/2000/IR (CM-II) dated the 15th September, 2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Food Corporation of India, Regional Office, Patna in issuing chargesheet dated 14-12-1999 after revocation of suspension order dated 10-08-99 on the same issue against Sh. Raghunath Singh, Regional Secretary of FCI Employees Union, Patna is legal and justified? If not, to what relief the workman concerned is entitled?"

2. Today (3-2-2003) was the date fixed for filing of the documents on behalf of the workman, but by filing one petition today Sri Chakravarty appearing on behalf of the workman submits that the concerned workman does not want to pursue this case any further and as such necessary order as regards final disposal of this reference be passed.

As the concerned workman who is the person aggrieved himself does not want to pursue the case, it is needless to keep this case pending any further and nothing remains left for adjudication. This reference, as such, stands finally disposed of.

S.H. KAZMI, Presiding Officer

नई दिल्ली, 14 फरवरी, 2003

का. आ. 844.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल.

प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद (संदर्भ संख्या 229/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-02-2003 प्राप्त हुआ था।

[सं. एल-22012/271/2000-आई. आर. (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 14th February, 2003

S.O.844.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 229/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 13-02-03.

[No. L-22012/271/2000-IR(C-II)]

N.P. KESAVAN, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

SHRI E. ISMAIL

Presiding Officer

Dated : 19th December, 2002

INDUSTRIAL DISPUTE NO. 229/2002

BETWEEN:

Sri. K. Prabhakar,
S/o Prakasham,
C/o Qtr. No. D-547, I-Zone, Petitioner
Kalyanikhani-504231

AND

The General Manager
M/s Singareni Collieries Co. Ltd.,
Mandamarri Division,
Mandamarri-504231. Respondent

APPEARANCES:

For the Petitioner : NIL

For the Respondent : M/s. K. Srinivasa Murthy,
V. Umadevi, C. Vijaya Shekar
Reddy & G. Praveen, Advocates

AWARD

The Government of India, Ministry of Labour by its Order No. L-22012/271/2000-IR (CM-II) dated 22-3-2002

referred the following dispute under section 10(1) (d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Co. Ltd., and their workman. The reference is.

SCHEDULE

"Whether the action of the General Manager, M/s Singareni Collieries Co., Ltd., Mandamarri Division, Mandamarri in dismissing Sri K. Prabhakar, Badli Coal Filler, Kalyankhani-5 incline with effect from 12-2-1999 is legal and justified? If not, to what relief is the workman is entitled to?"

The reference is numbered in this Tribunal as I.D. No. 229/2002 and notices issued to the parties.

2. In spite of several adjournments given from 2-7-2002 for filing of claim statement and documents for eleven adjournments including 19-12-2002 the petitioner has not turned out with claim statement and documents and the petitioner has failed to produce any evidence in support of his claim. Therefore, the reference is ordered against the petitioner and it is held that the petitioner is not entitled for any relief.

Accordingly a 'Nil' Award is passed, Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 19th day of December, 2002.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnessed examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 18 फरवरी, 2003

का. आ. 845.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ (संदर्भ संख्या 83/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-2-2003 को प्राप्त हुआ था।

[सं. एल-22012/35/एफ/90-आई. आर. (सी-II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 18th February, 2003

S.O. 845.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 83/90) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 17-02-2003.

[No. L-22012/35/F/90-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

Presiding Officer : SHRI S. M. GOEL

CASE NO. I.D. 83/90

Shri Dilbara Singh,
C/o General Secretary, FCI,
Class IV Employees Union,
Sangrur (Pb.)

.... Applicant

Versus

District Manager,
Food Corporation of India,
Ludhiana.

... Respondents

REPRESENTATIVES:

For the Workman : None.

For the Management : Sh. Ravi Kant Sharma

AWARD

(Passed on 30-1-2003)

The Central Govt. Ministry of Labour vide Notification No. L-22012/(35)/F/90-IR (C. II) dated 7-1990 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of FCI in terminating the services of Shri Dilbara Singh S/o Shri Ujjagar Singh, Safaiwala at Food Storage Depot, Khanna, w.e.f. 11-8-86, is legal and justified? If not to what relief the concerned workman is entitled and from what date?"

2. None appeared on behalf of the workman despite notice. It appears that workman is not interested to pursue with the present reference. In view of the above, the present reference is returned to the Central Govt. for want of prosecution. Central Govt. be informed.

Chandigarh.

Dated 30-1-2003

S. M. GOEL, Presiding Officer

नई दिल्ली, 18 फरवरी, 2003

का. आ. 846.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद नम्बर 2 (संदर्भ संख्या 199/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-02-2003 को प्राप्त हुआ था।

[सं. एल-22012/161/98-आई. आर. (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 18th February, 2003

S.O. 846.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 199/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad No. 2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 17-02-2003.

[No. L-22012/161/98-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS,

Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I. D. Act, 1947

Reference No. 199 of 1999

PARTIES : Employers in relation to the management of
Food Corporation of India, Patna and their
workman.

APPEARANCES:

On behalf of the : None
workmanOn behalf of the : Shri Abinash Kumar,
employers authorised representative

State : Jharkhand Industry : Food

Dated, Dhanbad the 28th January, 2003

ORDER

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to

this Tribunal for adjudication vide their Order No. L-22012/161/98/IR(CM-II), dated, the 24th April, 1999.

SCHEDULE

"Whether the action of the management of FCI, Regional Office, Patna in dismissing Sh. Robin Kumar Sinha, Ex-Stenographer, Gr. II from service w.e.f. 04-03-1997 during pendency of proceedings before the Conciliation Officer is legal and justified? If not, to what relief the workman concerned is entitled?"

2. In this reference neither the concerned workman nor his representative appeared. However, the management side appeared through their authorised representative and filed W.S. in this reference. It appears from the record that the instant reference was received by this Tribunal on 10-6-1999 and since then it is pending for disposal. Registered notices and show cause notices were issued to the workmen/union but in spite of the issuance of notices they failed to turn up. In terms of Rule 10B of the I.D. Central Rules, 1957 submission of W.S. by the concerned workman within 15 days is a mandatory one. The concerned workman not only violated the said provision of the Rules, but also did not consider necessary to give any response to the notices issued by this Tribunal. In natural course the question which will arise is what will be fate of the reference made by the Ministry for its disposal. The reference is made on the basis of dispute raised by the concerned workman union. Naturally responsibility rests with the concerned workman/union to assist the Court to dispose of the Reference in issue on merit. In view of the decision reported in 2002 (94) FLR 624 it will not be just and proper to pass 'No dispute' Award when both parties remain absent. There is also no scope to answer the reference on merit in absence of any W.S. and available documents. There is no dispute to hold that when any reference is made it is expected to be disposed of on merit but when the parties do not take any step or do not consider even to file W.S. such expectation to dispose of the reference on merit comes to an end. It is not expected that for years together the Court will pursue the matter suo moto with the expectations for appearance of the workman in spite of issuance of registered notices. As per I.D. Act the workmen excepting under provisions of Section 2A is debarred from raising any industrial dispute. The disputes are mainly raised by the Union for their workmen. These unions in spite of receiving notices did not care to appear before the Court for the interest of the workman and as a result they have been deprived of getting any justice. Until and unless the attitude of the union is changed I consider that this uncalled for situation will persist. Definitely it is the duty of the Court to dispose of the reference on merit but it depends on the cooperation of both sides. Here the record will clearly expose that sufficient opportunities had been given to the workman/union but yielded no result. This attitude shows clearly that the workman side is not interested to proceed with the hearing of the case for disposal on merit.

Under the facts and circumstances, I also do not find any sufficient reason to drag on the case for an indefinite period. Accordingly as there is no scope to dispose of the reference in question on merit, the same is closed.

B. BISWAS, Presiding Officer

नई दिल्ली, 18 फरवरी, 2003

का. अ. 847.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ (संदर्भ संख्या 370/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-02-03 को प्राप्त हुआ था।

[सं. एल-22012/301/99-आई. आर. (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 18th February, 2003

S.O. 847.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 370/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 17-02-03.

[No. L-22012/301/99-IR(C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Presiding Officer

Shri S. M. Goel

CASE NO. I.D. 370/2000

BETWEEN:

Shri Narinder Kumar,
S/o Sh. Jamuna Ram,
Gurdwara Road, W-3, Tarori Applicant

Vs.

The District Manager,
Food Corporation of India,
Karnal (Haryana). Respondent

REPRESENTATIVES

For the Workman : Sh. Paul S. Saini

For the Management : Sh. Parmod Jain

AWARD

(Passed on 27-1-2003)

The Central Govt. Ministry of Labour vide Notification No. L-22012/301/99-IR (CM. II) dated 15th September 2000 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of FCI in not regularising the services of the workman Shri Narinder Kumar & 18 others engaged under Contract Labour (Regulation & Abolition) Act, 1970 in FCI after the Notification No. 779(E) dated 9-12-1976 came into operation is legal and justified? If not, to what relief the workman are entitled?"

2. Today the case was fixed for filling of claim statement. The rep. of the workman pleads no instructions. The cost has also not been paid. No claim statement has either been filed. It appears that workman is not interested to pursue with the present reference. In view of the above, the present reference is returned to the Ministry for want of prosecution. Central Govt. be informed.

Chandigarh.

Date 27-1-2003

S. M. GOEL, Presiding Officer

नई दिल्ली, 14 फरवरी, 2003

का. आ. 848.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारत सरकार के राजपत्र, असाधारण, भाग II, खंड 3(ii) में दिनांक 11 जनवरी, 2000 को प्रकाशित भारत सरकार, श्रम मंत्रालय की दिनांक 4 जनवरी, 2000 की अधिसूचना संख्या का. आ. 32 (अ) में निम्नलिखित संशोधन करती है;

उक्त अधिसूचना में 'केन्द्र सरकार द्वारा धारा 4 के खंड (ख) के अंतर्गत नियुक्त' शीर्षक के तहत क्रम संख्या 6 एवं 7 के सामने दी गई प्रविष्टियों के स्थान पर निम्नलिखित प्रविष्टियां प्रतिस्थापित की जाएंगी, अर्थात्:—

क्रम संख्या 6 अपर सचिव,
श्रम मंत्रालय,
भारत सरकार,
नई दिल्ली

क्रम संख्या 7 महानिदेशक,
स्वास्थ्य सेवाएं,
भारत सरकार,
नई दिल्ली

[संख्या यू-16012/1/98-एस एस-I]

संयुक्ता राय, अवर सचिव

New Delhi, the 14th February, 2003

S. O. 848.—In exercise of the powers conferred by Section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Labour No. 32 (E), dated the 4th January, 2000 published in the Gazette

of India, Extraordinary, Part II, Section 3(ii) date the 11th January, 2000;

In the said notification under the heading "Appointed by the Central Government under clause (b) of Section 4" for the entries against S. No. 6 and S. No. 7, the following entries shall be substituted namely:—

S. No. 6 Additional Secretary,
Ministry of Labour,
Government of India,
New Delhi

S. No. 7 Director General,
Health Services,
Government of India,
New Delhi

[No. U-16012/1/98-SS-I]

SANJUKTA RAY, Under Secy.

नई दिल्ली, 19 फरवरी, 2003

का. आ. 849.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा -1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2003 की उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4, अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81, के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबन्ध छत्तीसगढ़ राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:—

"हेवी इण्डस्ट्रियल एरिया को शामिल करते हुए सम्पूर्ण राजस्व ग्राम हाथकोज।"

[संख्या एस-38013/12/2003-एस एस-1]

संयुक्ता राय, अवर सचिव

New Delhi, the 19th February, 2003

S.O. 849.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Chhattisgarh namely:—

"The Revenue Village Hathkoj including Heavy Industrial Area."

[No. S-38013/12/2003-SS.I]

SANJUKTA RAY, Under secy.

नई दिल्ली, 19 फरवरी, 2003

का. आ. 850.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2003 की उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबन्ध छत्तीसगढ़ राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“तहसील चाँपा जिला-जॉजगीर के औद्योगिक क्षेत्र चाँपा सहित राजस्व ग्राम-चाँपा एवं हथनेवरा तथा तहसील एवं जिला-जॉजगीर के अन्तर्गत राजस्व ग्राम-लछनपुर एवं बिरगहनी में शामिल क्षेत्र।”

[संख्या एस-38013/13/2003-एस एस-1]

संयुक्ता राय, अवर सचिव

New Delhi, the 19th February, 2003

S.O. 850.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Chhattisgarh namely:—

"The Industrial Areas comprising the revenue village-Champa and Hathnewara in Tehsil Champa District Janzgir and the Revenue Village-Lachanpur and Birgahani in Tehsil and District Janzgir."

[No. S-38013/13/2003-SS.1]

SANJUKTA RAY, Under Secy.

नई दिल्ली, 18 फरवरी, 2003

का. आ. 851.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के उपबन्धों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना

संख्या का. आ. 2516 दिनांक 23-7-2002 द्वारा यूरैनियम उद्योग जोकि औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 19 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 27-8-2002 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 27-2-2003 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस-11017/09/1997-आई. आर. (पी. एल.)]

श्रीमती बी. आर. विज, अवर सचिव

New Delhi, the 18th February, 2003

S. O. 851.—Whereas the Central Government having been satisfied that the public interest so required that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Dispute Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 2516 dated 23-7-2002 the services in the Uranium Industry which is covered by item 19 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 27th August, 2002;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 27th February, 2003.

[No. S-11017/09/1997-IR(PL)]

Smt. B. R. VIJ, Under Secy.